



Civil Rights

TITLE VI IMPLEMENTATION PLAN 2021

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TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	3
VDOT TITLE VI STATEMENT OF COMMITMENT	4
I. ORGANIZATION AND STAFFING	5-12
Relationship of Civil Rights Unit to Head of State Transportation Agency	
Statement of Responsibility and Authority of the Civil Rights Division	
Administrator/Title VI Coordinator	
Statement of Responsibility and Authority of Title VI Specialist	
Statement of Responsibility and Authority of District Civil Rights Managers	
Statement of Responsibility and Authority of Central Office Title VI	
Designees	
Organizational Charts	
II. ADMINISTRATION	13
Interdisciplinary Approach of Title VI Program Implementation	
III. TITLE VI PROGRAM IMPLEMENTATION	14-35
Program Areas Review and Monitoring Procedures	
Program Areas Title VI Responsibilities	
A. Transportation and Mobility Planning Division	
B. Location and Design Division	
C. Environmental Division	
D. Virginia Transportation Research Council	
E. Right of Way and Utilities Division	
F. Federal Programs Management	
G. Structure and Bridge Division	
H. Traffic Engineering Division	
I. Construction Division	
J. Capital Outlay and Facilities Management (COFM)	
K. Materials Division	
L. Consultant Procurement Office	
M. Administrative Services Division	

Sub-recipient Reviews and Monitoring Procedures	
A. Consultants & Sub-consultants	
B. Metropolitan Planning Organizations & Planning District Commissions	
C. Local Public Agencies	
Compliance and Enforcement Procedures	
Data Collection – Reporting - Analysis	
Training	
Dissemination of Title VI Information	
A. Internal Communication Materials and Resources	
B. Community Outreach and Public Education	
C. Public Involvement Plan	
Complaints	
Limited English Proficiency	
IV. DISCRIMINATION COMPLAINT PROCESS	36-40
V. REVIEW OF STATE DIRECTIVES	41
VI. TITLE VI ASSURANCE (USDOT 1050.2A)	41-49
VII. APPENDICES:	50
Appendix A	Complaint Form
Appendix B	Complaint Log Template
Appendix C	Consultant Assessment of Title VI Compliance
Appendix D	Consultant Title VI Evaluation Form
Appendix E	MPO/PDC Compliance Review Procedures
Appendix F	MPO & PDC Review Form, Compliance Letter and Letter of Findings
Appendix G	Local Public Agency Title VI Program Self-Assessment Form
Appendix H	Public Hearing Survey Form
Appendix J	Limited English Proficiency Guidelines
Appendix K	VDOT's Four Factor Analysis
Appendix L	Data Collection Guidelines

INTRODUCTION

The Virginia Department of Transportation (VDOT) is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964 (Title VI), as amended, and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964 prohibits agencies receiving federal financial assistance from discriminating against anyone or any group in the United States on the ground of race, color or national origin. Specifically, 42 USC 2000d states that: *“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”*

The Civil Rights Restoration Act of 1987 defined the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance, rather than just the particular programs or activities that receive the funds. The United States Department of Transportation (USDOT) and the Federal Highway Administration (FHWA) Regulations 49 Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable Executive Orders and authorities provide guidelines, actions, and responsibilities for State DOTs’ implementation of the Title VI Program.

In addition to Title VI, there are other Nondiscrimination statutes that afford legal protection. On August 11, 2000, President Clinton signed Executive Order 13166 to improve access to federally conducted and assisted programs and activities for persons who as a result of national origin have limited English proficiency (LEP). The Executive Order was titled, “Improving Access to Services for Persons with Limited English Proficiency”. The USDOT issued its “Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient (LEP) Persons” to effectuate Executive Order 13166. The policy guidance requires recipients of federal financial assistance to develop and implement guidance on how they will provide meaningful access to LEP persons, to comply with Title VI.

The Title VI Program is the “system of requirements” developed to implement Title VI of the Civil Rights Act of 1964. The following pages of this manuscript document VDOT’s Title VI Program and describe how VDOT will accomplish nondiscrimination in the delivery of its federally-assisted programs, services and activities in accordance to FHWA’s guidelines. The Implementation Plan includes the structure of the Department’s Title VI Program as well as the policies, procedures and practices that will be followed to comply with nondiscrimination requirements.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, VIRGINIA 23219-2000

Stephen C. Brich, P.E.
Commissioner


TITLE VI STATEMENT OF COMMITMENT

The Virginia Department of Transportation (VDOT) will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulation (CFR) Part 21, 23 CFR Part 200 and other applicable directives. Title VI of the Civil Rights Act of 1964 prohibits discrimination based upon race, color, and national origin. Specifically, 42 USC 2000d states that *"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

In addition to Title VI, VDOT will not discriminate under other statutes that afford legal protection on the basis of sex, age and disability. Further, as a recipient of federal-aid funding, VDOT strives to achieve nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. These efforts to prevent discrimination will address, but not be limited to, a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigation of complaints, allocation of funds, prioritization of projects, and the functions of right-of-way, research, planning, design, construction and project development.

VDOT will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by VDOT is aware of and applies the intent and spirit of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities in performing assigned duties. Every employee and representative of VDOT shall perform all official actions in full accord with applicable statutes, executive orders, regulations, and policies enunciated thereunder, to assure compliance with Title VI. The Civil Rights Division Administrator has been designated as the Department's Title VI Coordinator and is responsible for ensuring that all matters relating to nondiscrimination are administered effectively. The Title VI Specialist is responsible for the day-to-day administration of the Title VI Program.

Employees of the Virginia Department of Transportation, contractors or any member of the public with questions, problems or complaints regarding this statement, and the implementation of the stated provisions, should contact the Civil Rights Administrator at, 1401 East Broad Street, Richmond, VA 23219; telephone (804) 786-4552 or 1-888-508-3737, or the Title VI Specialist at (804) 786-2730.


Stephen C. Brich, P.E.
Commissioner

9/8/2020
Date

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I. ORGANIZATION AND STAFF RESPONSIBILITIES

The Civil Rights Division (CRD) has the primary responsibility of implementing VDOT's Title VI program. The Civil Rights Administrator is the Title VI Coordinator as head of the Civil Rights Division and is responsible for ensuring that all matters relating to nondiscrimination are administered effectively. The Title VI Specialist has the lead responsibility of the day-to-day implementation of the Title VI Program.

There are also nine District field offices with District Civil Rights Managers (DCRMs) who are responsible for ensuring effective Title VI implementation in their respective districts. They provide guidance and assistance in all Title VI related matters in an effort to meet the objectives and purpose of nondiscrimination in federally assisted programs and activities

In addition, each of the following program areas has significant Title VI responsibility and has appointed Title VI Liaisons or Designees:

Construction	Location and Design
Administrative Services	Local Assistance
Structure and Bridge	Materials
Right of Way	Traffic Engineering
Maintenance	Environmental Services
Transportation & Mobility Planning	Consultant Procurement Office
Federal Programs Management	Virginia Transportation Research Council
Capital Outlay and Facilities Management	

The Title VI Liaisons or Designees are responsible for ensuring implementation, compliance, program monitoring, enforcement and reporting..

Relationship of Civil Rights Unit to Head of State Transportation Agency

The Civil Rights Division Administrator (CRDA) reports to the Chief Deputy Commissioner, who reports to the Commissioner of Highways. However, the CRDA, as the Title VI Coordinator for the Department, has free and open access to the Commissioner for civil right matters. These include not only matters within VDOT, but also those pertaining to VDOT and its relationship with sub-recipients, contractors, and consultant firms. Recommendations on major Title VI issues are submitted by the Civil Rights Division Administrator to the Chief Deputy Commissioner who forwards the information to the Commissioner of Highways for final approval.

The District Civil Rights Managers and the Title VI Specialist report directly to the CRDA.

Statement of Responsibility and Authority of the Title VI Coordinator

Based on the organizational structure of VDOT, the Civil Rights Division Administrator manages the following Title VI related duties:

- Supervise the Civil Rights Unit and ensure that it is sufficiently staffed to carry out the Title VI objectives.
- Submit an annual update of the Title VI implementation plan to the Federal Highway Administration for approval.
- Submit to FHWA a yearly report of Title VI accomplishments for the past year and goals for the upcoming year.
- Provide overall leadership for the Title VI Program.
- Ensure development, updating and implementation of the Title VI Plan.
- Ensure procedures and processes for preventing discrimination and addressing and resolving complaints of discrimination.
- Provide guidance to District Civil Rights Managers on complex Title VI issues.
- Approve statewide guidelines for Title VI Program implementation.
- Responsible for development and control of the Civil Rights Division's budget to ensure that adequate resources are available for the purpose of Title VI Program implementation.

Statement of Responsibility and Authority of the Title VI Specialist

The Title VI Specialist, on a day-to-day basis, is responsible for implementation of VDOT's Title VI program and for ensuring compliance with the provisions of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities, including Executives Orders for Limited English Proficiency (LEP). The Title VI Specialist's duties include the following:

- Coordinate and prepare the Title VI Implementation Plan.
- Coordinate and prepare the annual Title VI Accomplishment Report.

- Coordinate activities related to the effective and efficient implementation of VDOT's Title VI Program.
- Develop procedures and processes for preventing discrimination and addressing and resolving complaints of discrimination.
- Provide Title VI technical assistance, guidance, and training to VDOT staff, state officials, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds.
- Develop and conduct Title VI reviews of program area activities annually.
- Develop procedures for collecting statistical data on race, ethnic group, national origin for participants and beneficiaries of the state highway program.
- Develop and publish Title VI information for dissemination to the general public and where appropriate ensure that the information is translated in languages other than English.
- Conduct annual reviews of consultants, contractors, and other recipients of VDOT funds.
- Implement procedures for prompt processing and disposition of Title VI complaints.
- Assist in obtaining public input, particularly in minority and traditionally underserved areas.
- Participate in the identification of Title VI impacts and mitigation measures of proposed projects.
- Assist in the identification of minorities and low income individuals in the right-of-way activities, etc.
- Develop procedures to conduct reviews of Metropolitan Planning Organizations (MPOs), Planning District Commissions (PDCs) and Local Public Agencies (LPAs) to ensure compliance with the provisions of Title VI, EJ and LEP requirements.
- Attend MPO/PDC public meetings and VDOT public meetings or hearings involving Title VI issues in the event Civil Rights staff in the district is not able to attend.

- Review environmental documents to identify and address social, economic and environmental effects and impacts.
- Review contractual procedures for consultants and contractors to ensure equity and consistency.
- Develop procedures for pre-award and post-award approval reviews of State programs and applicants for compliance with Title VI requirements.
- Provide leadership in multidisciplinary team activities.

Statement of Responsibility and Authority of District Civil Rights Managers

The District Civil Rights Managers (DCRMs) assist and support the Title VI Specialist in the implementation of VDOT's Title VI Program. The DCRMs monitor, and ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities, including EJ and LEP within VDOT's District offices. The DCRM's responsibilities in their respective districts include:

- Prepare a summary of the District's Title VI accomplishments for the past year and goals for the upcoming year for submission to the Civil Rights Division.
- Provide Title VI technical assistance, guidance and advice to state officials, VDOT staff, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other recipients of federal-aid highway funds.
- Prepare and disseminate Title VI information to the general public and where appropriate ensure that the information is translated in languages other than English, in consultation with the Title VI Specialist.
- Implement procedures for prompt processing and disposition of Title VI complaints.
- Conduct and/or coordinate Title VI training within respective districts.
- Assist in obtaining public input, particularly in minority and traditionally underserved areas.
- Participate in the identification of Title VI impacts and mitigation measures of proposed projects.

- Assist in the identification of minorities and low income individuals in right-of-way activities, etc.
- Conduct MPO, PDC and LPA reviews to ensure compliance with the provisions of Title VI and LEP requirements.
- Attend regional MPO/PDC public meetings or hearings involving Title VI issues.
- Attend or ensure district Civil Rights representation at VDOT public meetings or hearings.
- Review environmental documents to identify and address social, economic and environmental effects and impacts.
- Review contract documents to ensure compliance with Title VI.

Statement of Responsibility and Authority of Central Office Title VI Liaisons or Designees

The Title VI Designees assist and support the Title VI Specialist in the implementation of VDOT's Title VI Program. The Central Office Title VI Designees' responsibilities, on behalf of their respective Divisions include:

- Participate in VDOT's quarterly Title VI Interdisciplinary Team meetings.
- Assist with the implementation of Title VI policies for their respective Divisions.
- Advise the Civil Rights Division Administrator, Title VI Specialist or DCRMs of Title VI related problems or discrimination complaints.
- Refer Title VI discrimination complaints to the Civil Rights Division Administrator, Title VI Specialist or DCRMs.
- Maintain statistical data by race, ethnic group or national origin, as needed for respective program areas.
- Assist Title VI Administrator and Title VI Specialist to ensure that Title VI requirements are included in program area directives and that procedures used have built in safeguards to prevent discrimination.

- Collaborate with and/or assist Title VI Specialist in conducting reviews.
- Provide assistance to their Division or District Administrators regarding Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.
- Assist in the development of Title VI information for public dissemination, where appropriate, in languages other than English.
- Provide Title VI awareness within respective division to include training, tutorials and discussions.
- Complete information for the Annual Title VI Accomplishment Report.

Organizational Charts

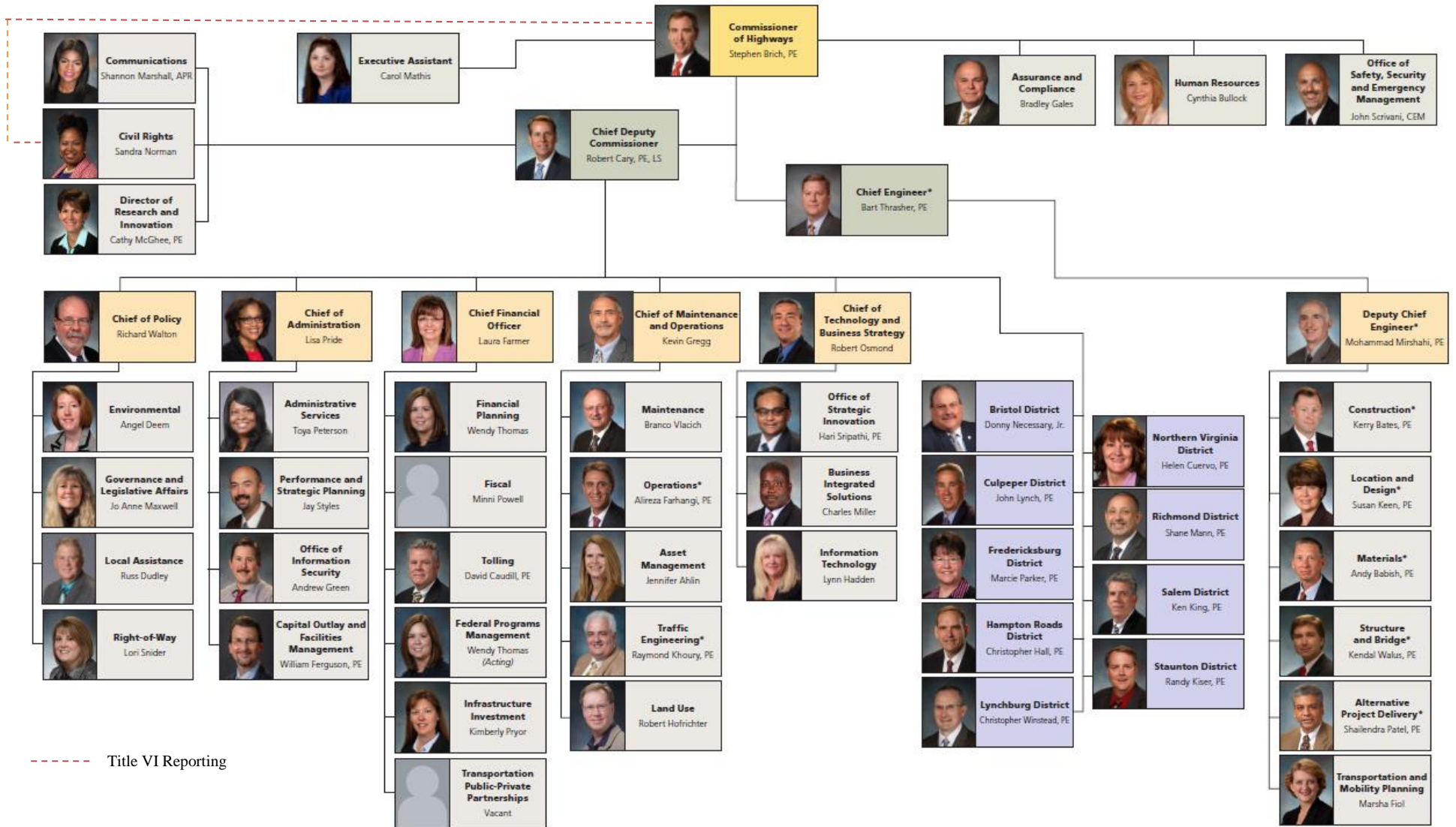
VDOT's Organizational Chart

Civil Rights Division Organizational Chart

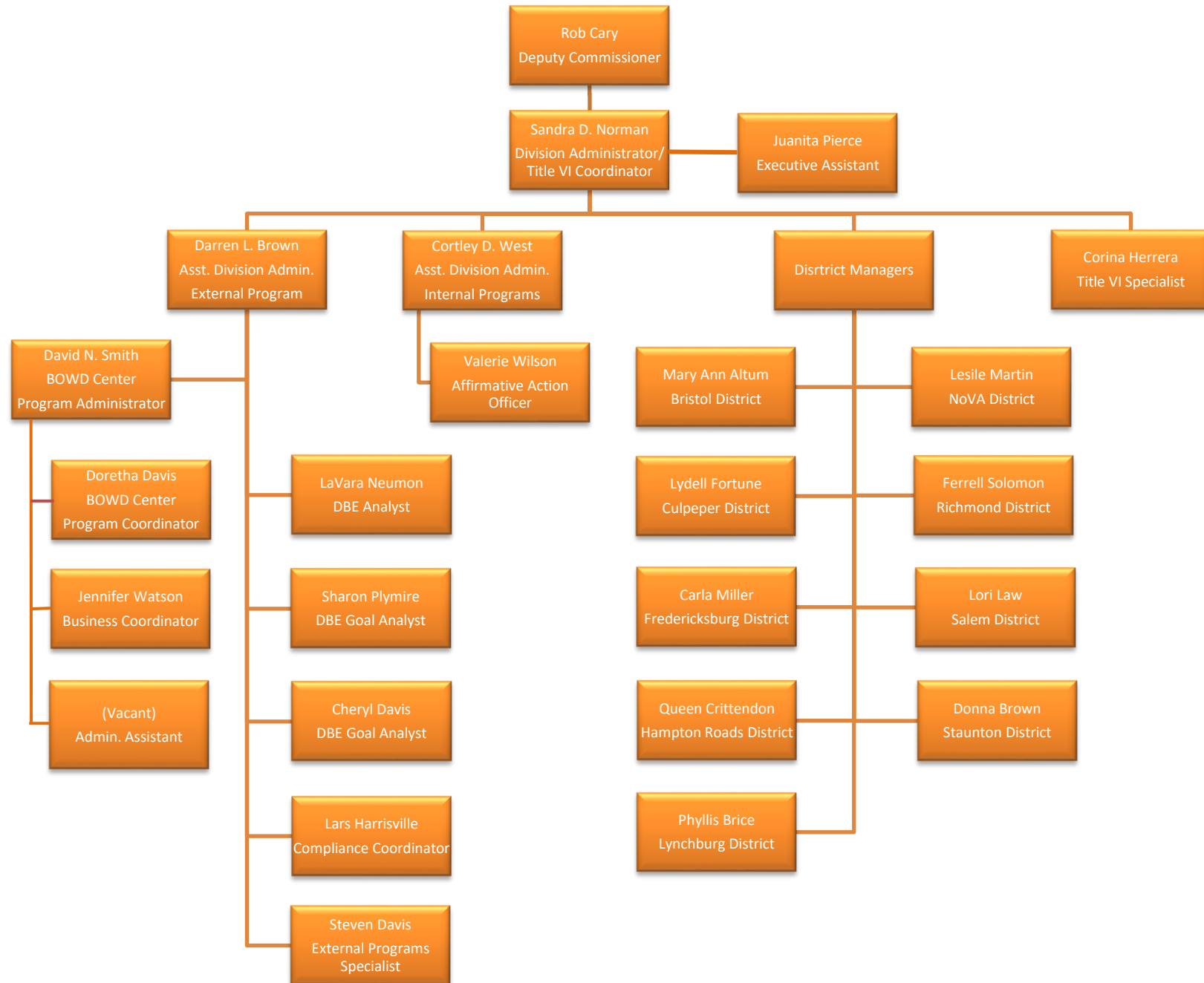
VDOT Organization Chart

July 2020

* Designates positions requiring professional engineering license



Civil Rights Organization Chart FY2019 -2020



II. ADMINISTRATION

Interdisciplinary Approach of Title VI

The Interdisciplinary approach focuses on a team effort to ensure nondiscrimination in all of VDOT's programs and activities. In implementing this approach, VDOT has employed the guidance provided by the FHWA. To ensure VDOT complies with Title VI of the Civil Rights Act of 1964 and other related statutes, VDOT has established a Title VI Interdisciplinary Team. The Interdisciplinary Team uses the systematic approach, communication and continuous interaction to proactively ensure nondiscrimination in all of VDOT's programs and activities. The members of the team consist of the Title VI Specialist and Central Office Title VI Designees. The Interdisciplinary Team's focus is to:

- Foster awareness of nondiscrimination requirements
- Participate in the development and implementation of the Title VI Program
- Identify areas of need requiring mitigation measures
- Formulate and prioritize strategies to address areas of mitigation
- Recommend revisions to the Title VI Implementation Plan.
- Develop a Title VI Work Plan
- Implement Title VI Program Plan
- Continuously assess and recommend adjustments to the Title VI Implementation Plan as necessary for effectiveness

In partnership with the Central Office Title VI Designees and the District Civil Rights Managers, the Specialist will review statistical data on relocations, impacted persons and affected communities identifying Title VI and LEP implications. This will be partly achieved through monitoring contracting and procurement procedures, and attending public meetings or MPO/PDC meetings in the event the Civil Rights staff in the district is not able to attend and reviewing public hearing transcripts, when needed.

III. TITLE VI PROGRAM IMPLEMENTATION

Program Areas Review and Monitoring (Internal Review Procedures)

The Title VI Specialist receives assistance from the Central Office Designees and from the District Civil Rights Managers (DCRMs) for the review and monitoring of compliance of VDOT Central Office Divisions and the District Offices. The Central Office Title VI Designees monitor the programs and activities within their division and the DCRMs monitor the nine district offices to ensure nondiscrimination and compliance with Title VI.

Each of the following program areas has appointed Title VI Designees for monitoring and review:

Construction	Location and Design
Administrative Services	Local Assistance
Structure and Bridge	Materials
Right of Way	Traffic Engineering
Maintenance	Environmental Services
Transportation & Mobility Planning	Consultant Procurement Office
Federal Programs Management	Virginia Transportation Research Council
Capital Outlay and Management	

Procedure and Outcome

Program Area Reviews are conducted annually. The tool used to conduct these reviews is a questionnaire completed by staff in each of the program areas. The questionnaires help identify and address areas of concern, trends, patterns or shortfall, as well as assuring compliance with Title VI. The Title VI Specialist sends the questionnaires to the Central Office Title VI Designees and to the DCRMS in the District with a scheduled date of completion. The completed questionnaires received from each program area in the Central Office are reviewed by the Title VI Specialist and the questionnaires completed in the districts are received and reviewed by the DCRMS. A summary of the responses is included in the Title VI Accomplishment Report submitted to FHWA on a yearly basis.

The Title VI Accomplishment Report, which lists major accomplishments made regarding Title VI activities, also includes: instances where Title VI issues were identified and discrimination was prevented, activities and efforts the Title VI Specialist and program area personnel have undertaken to monitor Title VI, a description of the scope and conclusions of any reviews conducted by the Title VI Specialist or program area personnel and a summary and status report on any Title VI complaints filed with VDOT. If any major problems(s) are identified and corrective action(s) taken, these will be listed in the report as well.

The review and analysis of statistical data on relocations, impacted persons and affected communities identifying Title VI and LEP implications will be partly achieved through monitoring contracting and procurement procedures, attending public information meetings, and, when needed, reviewing public hearing transcripts. Documents such as Draft Environmental Impact Statements, Environmental Impact Statements, and Supplemental Impact Statements are assessed to determine whether social, economic and environmental effects and impacts are identified, described and potential mitigation measured.

Civil Rights Staff in the districts attend public hearings, meetings and informational meetings. In doing so, staff is able to observe program area staff in their interactions with the public at the project-level. This allows for the opportunity to identify needs for public involvement and outreach as well as related request processes such as language services and accommodations.

Program Areas Title VI Responsibilities

A. Transportation and Mobility Planning Division

General Responsibilities

The Transportation and Mobility Planning Division (TMPD) is responsible for the development of long-range and short-range planning documents that provide a safe and efficient transportation system for the citizens of the Commonwealth of Virginia. In addition to VDOT transportation planning documents, TMPD coordinates and assists in the development of local and regional transportation plans in both rural and urban areas throughout the Commonwealth. The TMPD also conducts transportation studies and administers transportation planning programs statewide.

Planning Process

A comprehensive metropolitan transportation planning process is utilized. During the transportation planning process, TMPD will assist in the preparation and implementation of public involvement plans and programs aimed at improving attendance and participation of all population groups. Demographic profiles will be developed by TMPD using datasets from the 2010 decennial Census information. These demographic profiles will assist in geographically identifying potential civil rights, Title VI, EJ and LEP issues early in the planning process. As a supplement to the decennial Census civil rights datasets, a metropolitan planning organization could use (non-VDOT) update information of the Weldon Cooper Center and American Community Survey (ACS) for Public Service demographic profiles.

Title VI Responsibilities

- Ensure that all population groups are adequately informed of planning activities to participate in the transportation planning process.
- Ensure that reasonable accommodations for persons with disabilities are provided and meaningful access for citizens who are of LEP.
- Coordinate and/or provide training programs on Title VI, EJ and LEP.
- Ensure Title VI requirements are incorporated into all Planning District Commission and Transportation and Mobility Planning Division contracts and grants and have procedures to effect compliance with Title VI.
- Coordinate and participate in partnership with the Title VI Specialist to assure Title VI compliance of Planning District Commissions (PDCs) and MPOs.
- Develop measures that ensure compliance in the event of a noncompliance finding. These measures will be developed in conjunction with the Civil Rights Division and the PDC or MPO. If compliance measures cannot be implemented or agreed upon, sanctions may be imposed, that could include the withholding of payments to the contract or grant recipient until compliance measures can be implemented, and or cancellation, termination or suspension of the contract or grant, in whole or in part.
- Collect data on minority and low income persons involved in planning processes.
- Collect, maintain and analyze data on race, national origin and income level to adequately assess impacts and mitigation options.
- Complete information for the Annual Title VI Accomplishment Report.
- Ensure opportunity is provided to DBEs to participate in or conduct planning studies.

B. Location and Design Division

General Responsibilities

The Location and Design Division is responsible for the location, design and preparation of all right-of-way and road construction plans on all highway systems under the jurisdiction of VDOT. The Division reviews and processes all public hearing documents.

Design Process

Economic, social, topographic, and environmental impacts of proposed projects are key factors weighed in the location consideration. Federal, state, local, and departmental policies and procedures require that public hearings and/or informational meetings be held to give to all persons, including minorities and persons with LEP, an opportunity to obtain information and express their opinions

on proposed project locations. Special efforts will be made to inform members of minority communities of public hearings and other public involvement activities.

Title VI Responsibilities

- Provide translation services to Contractors with LEP to the greatest extent possible.
- Ensure consultants' compliance with State and Federal requirement guidelines by utilizing data provided by the Civil Rights Division.
- Develop mechanisms to identify affected minority and/or low income populations.
- Ensure public involvement in the decision making process.
- Advertise proposed contracts in minority publications.
- Provide information in alternative formats.
- Ensure that all meeting locations are ADA compliant and accessible by public transportation.
- Provide materials in languages other than English and interpreters for LEP communities.
- Maintain documentation on hearings.
- Provide information for the Annual Title VI Accomplishment Report.
- Provide opportunity for DBEs and other small businesses to participate in procurement activities.

C. Environmental Division

General Responsibilities

The Environmental Division facilitates delivery of the transportation program by providing environmental regulatory compliance, leadership, management, and accountability. The various disciplines within the Environmental Division address over sixty individual federal and state laws, executive orders, and regulations that require compliance.

The division is divided into eight sections: Air Quality, Noise, Consultant Services, Cultural Resources / Environmental Data Management, Hazardous Materials, District Program, Project Study Management Program, and Natural Resources. Each of the sections is responsible for a particular discipline within the overall environmental process. Many program areas have specific activities that directly involve contact with the public.

Environmental Process

A systematic process is used to study and evaluate all necessary environmental

aspects of proposed projects, including social and economic. Depending on the scope, complexity and impacts of a project, a National Environmental Policy Act (NEPA) Categorical Exclusion (CE), NEPA Environmental Assessment (EA), or Environmental Impact Statement will be completed.

Title VI Responsibilities

- Ensure nondiscrimination in efforts to solicit public involvement.
- Ensure all public hearings are accessible to persons with disabilities and LEP.
- Conduct studies of the potential project sites for effects on such issues as cultural resources, community life, EJ and land use patterns.
- Ensure nondiscrimination in the procurement process.
- Monitor compliance with Title VI requirements in all aspects of the environmental process.
- Develop mechanisms to identify populations affected by a project and mitigation options.
- Ensure Title VI/Environmental Justice (EJ) compliance in all Environmental Impact Statements in coordination with CRD's Title VI Specialist.
- Provide Title VI Specialist a copy of all environmental assessments and studies prior to public release for information for review and comments.
- Provide opportunity for DBEs and other small businesses to participate in procurement activities.
- Provide information for the Annual Title VI Accomplishment Report.

D. Virginia Transportation Research Council (VTRC)

General Responsibilities

The Virginia Transportation Research Council (VTRC) was established in 1948 by a joint agreement between VDOT and the University of Virginia. The research staff undertakes projects originating from within VDOT, other agencies, and recommendations from VTRC's network of Research Advisory Committees' (RAC). The Research Council's research projects focus on supporting VDOT's mission to provide a safe and efficient transportation system for the traveling public.

Research Process

In-house staff performs the majority of the Research Council's research. Occasionally research contracts are awarded to university faculty and private consultants when the required expertise is not available in-house, workload or scheduling issues exist or specialized facilities are required.

Title VI Responsibilities

- Ensure adherence with DBE program requirements in the granting of research contracts and nondiscrimination in the selection of grant recipients.
- Develop procedures to promote the participation of minorities and women in all aspects of research projects.
- Verify that Title VI requirements are incorporated in all contracts and agreements.
- Compile data for the Annual Title VI Accomplishment Report.
- Monitor internal procedures to ensure compliance with Title VI requirements.

E. Right of Way and Utilities Division

General Responsibilities

The Right of Way (ROW) and Utilities Division's mission is responsible for acquiring real property and adjusting utilities for the construction, operations and maintenance of Virginia's Highways.

Acquisition Process

All aspects of VDOT's acquisition program shall be non-discriminatory and conducted without regard to race, color, national origin, sex, age, disability or low-income. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation of displaced individuals, businesses, farm operations, and nonprofit organizations, as well as property management. Once the appraisal process is completed, the ROW staff will present its offer to the landowner for acquisition. Acquisitions not conducted by the Right of Way staff are performed by consultants.

Title VI Responsibilities

- Ensure the utilization of DBE firms in the selection of consultants and other resources.
- Provide translators in instances where affected landowners have LEP.
- Provide reasonable accommodations for property owners with disabilities, when requested.
- Provide replacement housing listings to persons displaced without regard to race, color, national origin, sex, age, disability or low-income. If any instance of discrimination is confirmed, the listing agency shall be notified and the listing will no longer be used.

- Require independent contractors employed by the displacee for moving personal property, or to perform any other services related to the relocation, to observe nondiscrimination statutes and policies.
- Apprise affected property owners, tenants, and others involved of their rights and options regarding negotiations, relocation, condemnation and other aspects of the acquisition process.
- Incorporate Title VI language and assurance statements in all surveys of property owners and tenants.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
- Complete information for the Annual Title VI Accomplishment Report.

F. Federal Programs Management Division

General Responsibilities

The mission of the Federal Programs Management Division (FMPD) is to support the department by providing guidance, stewardship, and oversight in the efficient and effective management of federal projects and funds. FPMDD's activities in support of this mission include coordination with the Federal Highway Administration, development and management of the State Transportation Improvement Program (STIP), financial management of federal projects, and providing professional customer service and consultation to VDOT's stakeholders.

The Statewide Transportation Improvement Program (STIP)

The Statewide Transportation Improvement Program (STIP) is Virginia's federally required four-year program that identifies the transportation projects (highway, passenger rail, freight, public transit, bicycle and pedestrian) that will utilize federal transportation funding or require approval from either the Federal Highway Administration (FHWA) or Federal Transit Administration (FTA).

Federal regulations require each state to produce a STIP at least once every four years; however, Virginia updates their STIP every three years to ensure the program never lapses. Federal regulations require that the STIP demonstrate fiscal constraint to show that the state is not scheduling more transportation projects for construction than it has funding for.

Title VI Responsibilities

- Afford opportunities for the public to provide input on transportation projects and priorities as part of the continuing transportation planning process for the development of the STIP.

- Ensure that all population groups are adequately informed to participate in the development of the STIP process.
- Ensure that reasonable accommodations for persons with disabilities are provided and meaningful access for citizens who are of LEP is provided during the STIP process.
- Ensure Title VI requirements are incorporated into all Federal Programming Division contracts and grants and have procedures to effect compliance with Title VI.
- Coordinate and participate in partnership with the Civil Rights Division to assure Title VI compliance of Planning District Commissions (PDCs) and MPOs.
- Develop measures that ensure compliance in the event of a noncompliance finding. These measures will be developed in conjunction with the Civil Rights Division and the PDC or MPO. If compliance measures cannot be implemented or agreed upon, sanctions may be imposed, that could include the withholding of payments to the contract or grant recipient until compliance measures can be implemented, and or cancellation, termination or suspension of the contract or grant, in whole or in part.
- Complete information for the Annual Title VI Accomplishment Report.

G. Structure and Bridge Division

General Responsibilities

The Structure & Bridge Division plans, designs, inspects and maintains the bridges and structures for VDOT's surface transportation system. In addition, this division provides structural expertise, policies, guidelines, standards, and information to its customers/stakeholders. To augment its in-house staff, the Structure & Bridge Division procures and administers consultant contracts. The procurement and administration of consultant contracts has been identified by the division as its program area involving Title VI of the Civil Rights Act of 1964 and related statutes and authorities.

Title VI Responsibilities

- Monitor for compliance with Title VI of the Civil Rights Act of 1964 and other nondiscriminatory statutes and authorities.
- Ensure nondiscrimination in the award process.
- Include Title VI language in every contract.
- Provide information for the Annual Title VI Accomplishment Report.

H. Traffic Engineering Division

General Responsibilities

The Traffic Engineering Division's focus is the safe and operationally efficient movement of traffic on our roads and highways. As such, the Division is responsible for tasks that cover a wide array of activities. These activities vary from procedure planning and research/study deployment to designing and implementing permanent traffic control features; and from managing accident statistics and recording traffic counts to managing route naming and numbering.

Title VI Responsibilities

- Afford all members of the public an equal opportunity to review records.
- Include Title VI language in advertisements.
- Ensure equal opportunity in the issuance of permits and certifications.
- Offer Flagger Certification training in a nondiscriminatory manner.
- Provide reasonable accommodations for individuals with disabilities and translations for LEP individuals.
- Provide information for the Annual Title VI Accomplishment Report.

I. Construction Division

General Responsibilities

The Scheduling and Contract Division's mission is to keep Virginia moving by providing transportation facilities, and utilizing an effective program for the advertisement, award, and administration of contracts for the construction, improvement, and maintenance of these facilities.

Title VI Responsibilities

- Ensure free and open competition and Title VI nondiscrimination assurances without regard to race, color, national origin, sex, age, disability or low-income through uniformity in prequalification, preparation of construction proposals, solicitation of bids/ advertisement, receipt of bids, bid analysis and award of construction contracts, project administration/monitoring, and the utilization of consultants.
- Review all proposal documents for required nondiscrimination provisions. Included in the proposal are the nondiscrimination provisions listed in Title VI assurances.
- Provide contractors with a list of certified DBE firms.

- Ensure that DBEs have the maximum opportunity to compete for and perform work on contracts.
- Advertise in newspapers having a wide circulation, in minority publications, trade journals, or other appropriate media to reach a wide audience.
- Send copies of advertisements to minority organizations and trade associations.
- Award contracts to the lowest responsive and responsible bidder without discrimination against any bidder because of race, color, sex, national origin, age, disability or low-income and any other basis prohibited by Title VI and other nondiscrimination authorities.
- Ensure that Title VI regulations are enforced through project inspectors.
- Include DBE special provisions in those projects with assigned goals.
- Review all projects for application of DBE program requirements.
- Ensure through reviews that prime contractors with DBE requirements award previously committed work to proper DBE firms. Award of construction contracts shall be granted on the lowest responsive bidder including DBE requirements.
- Ensure through reviews that DBEs actually perform a commercially useful function on contracts.
- Provide information for the Annual Title VI Accomplishment Report.

J. Capital Outlay and Facilities Management (COFM)

General Responsibilities

The COFM division manages the statewide capital outlay and maintenance reserve program and maintains the physical plant for VDOT's central office facilities.

Title VI Responsibilities

- Assign a Title VI Designee to ensure that the division complies with Title VI and other related nondiscrimination authorities.
- Ensure that the procurement process for consultant services is implemented in a nondiscriminatory manner.
- Ensure Title VI language is included in consultant procurement documents.
- Ensure that Requests for Proposals are advertised in all segments of the community including minority and female publications.
- Provide information for the Annual Title VI Accomplishment Report.

K. Materials Division

General Responsibilities

The Materials Division's role within VDOT is to build and maintain a safe and efficient transportation system through the application of current materials engineering and testing procedures. The Division procures and administers consultant contracts for commercial testing and inspecting laboratories and, to perform testing and inspection of highway construction and maintenance materials. In addition, the Division is responsible for managing the Certification Schools.

Title VI Responsibilities

- Administer consultant contracts in a non-discriminatory manner.
- Include Title VI language in all contracts.
- Review directives and procedures to ensure Title VI compliance.
- Ensure that Requests for Proposal are advertised in all segments of the community including minority and female publications.
- Ensure services are provided in a nondiscriminatory manner.

L. Consultant Procurement Office (CPO)

General Responsibilities

The Consultant Procurement Office provides leadership in managing, monitoring and standardizing the professional procurement process for consultant services and coordinates all aspects of the procurement timeline, as well as establishes the procurement schedule and communicates with key stakeholders internal and external to the organization.

Title VI Responsibilities

- Assign a Title VI Designee to ensure that the Office complies with Title VI and other related nondiscrimination authorities.
- Ensure that the professional procurement process for consultant services is implemented in a nondiscriminatory manner.
- Ensure Title VI language is included in consultant procurement documents.
- Ensure that Requests for Proposal are advertised in all segments of the community including minority and female publications.
- Provide information for the Annual Title VI Accomplishment Report.

M. Administrative Services Division (ASD)

General Responsibilities

The Administrative Services Division provides leadership in managing and overseeing the Agency's procurement process for purchases of goods and contracting services. The division coordinates all aspects of the procurement timeline, as well as establishes the procurement schedule and communicates with key stakeholders internal and external to the organization.

Title VI Responsibilities

- Assign a Title VI Designee to ensure that the division complies with Title VI and other related nondiscrimination authorities.
- Ensure that the procurement process for contracting services is implemented in a nondiscriminatory manner.
- Ensure procurements are conducted in accordance with applicable federal and state procurement laws and regulations.
- Ensure Title VI language is included in procurement documents.
- Ensure that Requests for Proposals and Invitation for Bids are advertised in all segments of the community including minority and female publications.
- Provide information for the Annual Title VI Accomplishment Report.

Sub-recipient Reviews & Monitoring Procedures (External)

The Title VI Specialist in conjunction with the Central Office Designees and District Civil Rights Managers will review and monitor compliance of the following entities: Consultants, Contractors, Planning District Agencies (PDCs), Metropolitan Planning Organizations (MPOs), and Local Planning Agencies (LPAs).

Methods of monitoring include:

- Collecting statistical data (race, color, and national origin) of participation in and beneficiaries of the programs and activities conducted by the Recipient.
- Attending training programs on Title VI and related statutes.
- Preparing a yearly report of Title VI accomplishments for the past year and goals for the next year.
- Conducting compliance reviews of major program areas to facilitate the annual Accomplishment Report & Work Plan.
- Conducting audits of districts, divisions, and sub-recipients including consultants, MPOs, PDCs and local public agencies (LPAs).
- Developing and disseminating guidelines and implementation plans including

Title VI and Limited English Proficiency.

A. Consultants & Sub-consultants

To monitor and assess their compliance, consultants and sub-consultants are required to submit a Title VI Evaluation Form. This requirement is applicable for all consultants. A copy of this form is provided in Appendix D.

The Title VI Evaluation Form provides documentation that a consultant has procedures in place to prevent discrimination in programs and services based on Title VI.

For new consultants that do not have a current Title VI assessment on file with VDOT, the Consultant Procurement Office (CPO) will request a Title VI Evaluation Form within ten (10) days of notification of selection. The consultant or sub-consultant submits the completed form to the CPO and the form is forwarded to the Civil Rights Division (CRD) for review.

CRD will review the form and the supporting documents and will issue a pre-award approval letter within fifteen (15) days of receiving documentation, if no revisions needed. Revisions to the procedures and/or additional information may be requested prior to the approval, or an on-site review may be requested within the same time frame to confirm information provided in the Assessment Form. CRD may randomly schedule on site compliance reviews at the consultant's office.

Effective July 1st, 2018, VDOT implemented a two-year approval pilot process to evaluate the effectiveness of issuing Title VI Evaluation approval letters for two years. Firms submit an Affidavit of No Change (AONC) for the year in between. If the report is approved, a letter is sent out with an expiration date for two years from the date of the approval letter. Typically, the letter remains current and on file with VDOT for the two-year period. An updated report is required for consultants every two years in order to continue to perform under a contract with VDOT. VDOT Project Managers have access to a Title VI Log that is updated monthly on the Civil Rights InsideVDOT webpage, to be able to check firms that have a Title VI Evaluation Report letter of approval. It should be noted that if VDOT conducts an on-site compliance review the contractor can still be found to be out of compliance during the two-year period. Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part. Possible sanctions assessed to a consultant or contractor found in noncompliance with Title VI include withholding payment until compliance is corrected or cancellation, termination, and possible suspension of the contract in whole or in part.

B. Metropolitan Planning Organizations (MPOs)/Planning District Commissions (PDCs)

Primary Responsibility

District Civil Rights Managers (DCRMs)

Tool

MPO - PDC Compliance Review (Self- Assessment) Form

Timeline for Review Process

Review: **3-4 months**

- 1- Civil Rights Division Administrator sends out letter notifying MPO or PDC about the Title VI Program Review
- 2- Civil Rights District Manager sends out review (self-assessment) form to MPO or PDC
- 3- MPO or PDC conducts self-assessment and returns form to DCRM
- 4- DCRM reviews document and if needed, conducts a site visit
- 5- DCRM prepares a review report
- 6- DCRM issues a letter of no significant finding or a letter of non-compliance with corrective actions

Corrective Actions: **3 months.**

The Review

District Civil Rights Managers (DCRMs) will have the primary responsibility of conducting compliance reviews of MPOs and PDCs using the MPO or the PDC Compliance Review (Self-Assessment) Form. When the DCRM is unable to conduct the review or there is a conflict of interest based on a complaint against the district office from a MPO-PDC, the Title VI Specialist may assist with conducting the compliance review.

The DCRM will send the current MPO/PDC Compliance Review (Self-Assessment) Form with a 30-day deadline for returning the document. Once the self-assessment document is returned to the DCRM, the form and supporting documents will be reviewed for compliance with Title VI and LEP. The DCRM will write questions that may arise from the answers provided by the MPO or PDC on the compliance review form. If needed, a site visit (or virtual meeting) will be conducted to clarify any questions and review documents and data provided on the form within 30 days of receiving the Compliance Review Form from the MPO or PDC. The DCRM will write a review report.

If no significant findings are found, the DCRM will send a letter of no significant findings within 30 days of the site visit to the MPO or PDC and the Civil Rights Division Administrator. If non-compliance issues arise, the MPO/PDC will be

issued a letter of findings, which will also be sent to the Civil Rights Division Administrator within 30 days of the site visit with recommendations for corrections and a maximum three (3) month deadline based on the items that need to be brought into compliance.

Compliance reviews of MPOs and/or PDCs will be conducted periodically. Each VDOT district will review a planning agency at least once every four years. A list of the MPOs/PDCs to be reviewed will be determined at the beginning of each calendar year, and a date/schedule of when the reviews will take place will be established as well.

Please see MPO and PDC Compliance Review Procedures in Appendix E, and copies of the templates of the review forms, compliance letters and letters of findings in Appendix F.

C. Local Public Agencies (Cities, Counties and Towns)

In accordance with Federal Title VI regulations, VDOT will conduct periodic reviews of Local Public Agencies (LPAs) for Title VI compliance. The reviews will be scheduled by VDOT's Title VI Specialist in coordination with the VDOT Title VI Coordinator. VDOT will utilize the following criteria and methodology to identify a representative sample of LPAs to review.

Criteria:

- VDOT will review 50% of total number of localities that received funding during a fiscal year (based on the most recent fiscal year data available).
- The total number will be equally divided into the nine (9) VDOT districts. This will determine the number of LPAs to be reviewed each year in a district.

Methodology

The methodology that will be used to determine the number of LPAs to be reviewed and to pick the LPAs to be reviewed in each district is as follows:

- 1- Compile a list of localities that received funding in a fiscal year and assign the corresponding district to each locality
- 2- Determine the 50% of the total
- 3- Divide the 50% total among 9 districts
- 4- Sort list by funding amount (largest to least).
- 5- Create groups by \$\$ amount:
 - (1) Greater than \$1 million
 - (2) < \$1 million > \$500,000
 - (3) < \$500,000 > \$100,000
 - (4) < \$100,000 > \$50,000
 - (5) < \$50,000 > \$10,000
 - (6) Less than \$10,000

- 6- For each of the groups determined in step 5, select one LPA for each district. If the district does not have an LPA in a group, a selection will be made from the next group. After reaching group (6), start at the top again (second round to pick an additional LPA from each group). The second LPA picked is the next \$\$ amount closest to the first pick. Selection will stop when reaching the number of picks per district as determined in step 3 above.

The Review

The necessary review arrangements and the actual review will be conducted by the DCRMs. The review will focus on how effectively the local agency has implemented its Title VI Plan, and it will consist of a Desk (Pre-Site visit) Review and an On-Site Review, which may be conducted as a virtual meeting. The LPA will be asked to gather and submit documentation to the District Civil Rights Office for the Desk Review using a Self- Assessment Compliance form and to prepare other documentation such as record or contract files for the On-Site Review/Virtual meeting if needed. Personnel with Title VI responsibilities will be interviewed during the On-Site visit/Virtual meeting. A copy of the LPA's Title VI Program Self-Assessment form is provided in Appendix G

Upon conclusion for the On-Site Review/Virtual meeting, the LPA will be notified by the DCRO of compliance or in the event that deficiencies are found, the local agency will be told of those deficiencies. The LPA will be given 90 days to develop a voluntary Corrective Action Plan to be submitted to VDOT Civil Rights District Office. The submittal of this plan will allow the LPA to develop voluntary corrective actions prior to be found in Non-Compliance. After the LPA corrects all deficiencies, it will be notified in writing that it is in compliance. However, if the LPA does not correct the deficiencies or fails to submit a Corrective Action Plan, it may be subject to sanctions including the suspension of federal funding.

Compliance and Enforcement Procedures

By signing the Title VI Assurances document as a condition to using Federal funds, VDOT has agreed to conduct compliance reviews and to take enforcement actions when required. The enforcement actions that VDOT will follow in the event of a finding of noncompliance are:

- a) voluntary or informal compliance (sought first)
- b) suspension or termination of federal assistance
- c) refusal to grant or continue federal financial assistance
- d) utilize any other means as authorized by the law.

Data Collection

Under Title VI, a recipient is required to collect statistical data (race, color, or national origin) of participants and beneficiaries of programs and activities conducted. Data collection is key to ensuring that transportation programs, services, facilities and projects effectively meet the needs of “all persons” without discrimination; i.e., disproportionately benefitting or harming one group over another is a violation of Title VI. Timely and accurate data allow for better decision making and provide support and defensibility to the decisions made.

Statistical data including race, national origin, age, or disability (where known) of participants in and beneficiaries of VDOT’s programs, (i.e. relocatees, impacted persons, affected communities) will be collected, analyzed and maintained by VDOT to determine the transportation investment benefits and burdens to the eligible population, including minority and LEP populations (Please see Data Collection Guidelines in Appendix L for more details).

Training

VDOT designs and conducts a variety of training and development classes through the Learning Center Division either with VDOT staff or through contracts. If the training is contracted out, it is the responsibility of the division to ensure that the contract includes the language that the contractor has the responsibility for complying with Title VI. If the language is not included in the contract, it shall be the responsibility of the division to monitor and review the program for Title VI compliance.

Training compliance responsibilities include:

- Collecting statistical data (race, color and national origin) of participation in and beneficiaries of the program.
- Monitoring accomplishments and problem areas and summarizing information annually for Title VI Update Report.

As stated under Title VI responsibilities, the Title VI Specialist and the District Civil Rights Managers are responsible for providing Title VI technical assistance, guidance, and coordinating training to VDOT staff, state officials, cities, counties, consultants, contractors, suppliers, universities, colleges, planning agencies, and other indirect recipients of federal-aid highway funds. The Title VI Designees are responsible for providing Title VI awareness within their respective division to include training, tutorials and discussions.

Title VI Training will be provided to the Civil Rights Division staff as part of the comprehensive trainings or symposiums that may be developed for the entire unit. A special training unit or session is devoted to the Title VI Program during those trainings.

In between the scheduled trainings, staff is always made aware of online training or webinars on specific topics offered by FHWA. Title VI training is also offered to the VDOT Interdisciplinary Team and to the VDOT Consultants and Sub consultants. This training is facilitated by FHWA's Resource Center Title VI Specialist. Among the sub-recipients that will also receive Title VI training are the Metropolitan Planning Organizations (MPOs), Planning District Commissions (PDCs) and the Local Planning Agencies (LPAs). Training for these groups will be provided primarily with the assistance of FHWA's Resource Center staff and/or FHWA's online library of videos and resources such as Federal-aid Essentials for Local Public Agencies.

VDOT's Civil Rights Division has developed the following resources available to LPAs: Title VI Program Compliance Toolkit and various Title VI Nondiscrimination document templates. These tools are all available at VDOT's website.

Dissemination of Title VI Information

A - Internal Communication materials and resources

Title VI Informational Poster for VDOT Staff. The poster provides information about VDOT's Title VI Program and is intended to inform and educate VDOT employees about the program. It also helps bring awareness about the program and serves as a constant reminder about Title VI.

Title VI Interdisciplinary Quarterly Meetings – are held on a quarterly basis with the Title VI Designees to educate the Designees and receive their input and feedback on the development and implementation of Title VI related policies and procedures.

Title VI Program Newsletter for VDOT Staff. The Civil Rights Division has created the Title VI Program Newsletter to reinforce the agency's commitment to prohibiting discrimination on the ground of race, color, or national origin. The newsletter is used as a tool to keep employees up to date on program requirements and events, address common questions related to the Title VI Program, and highlight divisions' contributions to the Title VI Program.

InsideVDOT Portal – Title VI Program page. This portal provides VDOT employees information about the Title VI Program, resources and access to documents, forms and reports.

B - Community Outreach and Public Education

VDOT's Civil Rights Division conducts various methods of Community Outreach and Public Education. The primary purpose is to apprise sub-recipients, contractors, beneficiaries, and potential participants (public) of their rights under

Title VI. Regular and comprehensive outreach and education provide members of the public with information necessary to pursue and protect their rights under Title VI and remind them of their obligations. VDOT and its sub-recipients learn of community concerns and can receive input from them regarding their Title VI implementation and enforcement. Some of VDOT's efforts include:

- Making available, and where appropriate, distributing Title VI regulations, guidelines, policy and procedures, including the implementation plan to VDOT employees, sub-recipients, contractors, beneficiaries and other interested persons;
- Posting VDOT's nondiscrimination policy and compliance with Title VI, availability of Title VI information from VDOT and FHWA, and a brief explanation of procedures for filing complaints in the website;
- Using other forms of public distribution such as pamphlets, handbooks, manuals, and the use of print and broadcast media;
- Outreaching to people with LEP;
- Using reasonable measures to disseminate written materials in appropriate languages;
- Providing federally assisted programs and services subject to Title VI in languages other than English.

VDOT's outreach activities include:

Title VI Brochure

Civil Rights Website

Transportation Continuum Brochure

Public Hearings

Transportation DBE Advisory Committee (TDAC)

Virginia Transportation Construction Alliance Forums

Title VI Brochure – The brochure contains information that educates the public and VDOT staff on the Title VI Act and the Title VI Program. The brochure is entitled *Title VI -Ensuring non-discrimination under any program or activity receiving federal financial assistance* and is distributed statewide to the public, sub recipients, and other parties or individuals participating in or otherwise benefitting from federal financial assistance.

Civil Rights Website – is an electronic resource for educating the public and VDOT on Title VI and other Civil Rights laws and processes. VDOT's Title VI Evaluation Form is posted on this site as well as the Title VI Log, which is a list of all Title VI consultants that have an approved Title VI Evaluation Report in file. In addition, VDOT's Español website is in the process of translating appropriate portions of the website into Spanish.

Transportation Continuum Brochure – identifies all transportation areas that the Civil Rights Division impacts or influences by regulation or executive order including Title VI and Limited English Proficiency.

Public Hearings – Civil Rights staff attends the majority of the public hearings held including citizen informational meetings for the purpose of disseminating Title VI information to the public and to monitor impact of projects. Citizens are provided with Title VI brochures and other written materials to educate and acquaint them with Title VI and their rights under the law as well as VDOT’s commitment to nondiscrimination and equal opportunity. A survey form is used to collect demographic data and track how well different segments of the population are represented. Public meeting notices are published in minority and local newspapers, flyers are distributed in the communities, post cards are mailed out and posters are placed at the entrance and exit of a project area. Public meetings/hearings are conducted in a barrier free environment. Virtual meetings may be conducted in lieu of in-person meetings.

Transportation DBE Advisory Committee (TDAC) Quarterly Meetings – Ongoing
The Transportation DBE Advisory Committee was formed to serve as a forum through which concerns of DBE firms are addressed and to provide recommendations for operational and administrative improvements to the commissioner and/or appropriate departments. The group meets quarterly, rotating meetings among districts. Annually, TDAC sponsors the DBE Picnic to foster industry relationships.

Virginia Transportation Construction Alliance Forums (Annually) - The Civil Rights Division participates annually in VTCA Forums. A wide range and large number of consultant firms including DBEs were invited to attend these forums. Each year a Civil Rights Division representative provides training in a breakout session. The topic is sometimes in reference to the Title VI Program.

Other activities include meetings and dissemination of information at:

- Neighborhood Task Force Meetings
- Elementary, middle and high schools
- Elected Officials
- Rotary/Professional Organizations/Chamber/Hispanic Business Development
- High School Career Fairs
- Diversity Fairs
- University Student Groups
- Project Public Meetings
- Community Associations

B - Public Involvement Plan

Joint VDOT-DRPT state public participation process includes information to engage, inform and receive the input of the public, including Title VI protected persons. The state public participation process is documented in the [Public Participation in Virginia's Transportation Planning and Programming Process](#). The document explains the planning and programming processes, which are the beginning stages of all transportation projects, and the various activities in which citizens can participate and influence plans years before individual project level work begins.

To ensure that highway locations and designs are consistent with federal and state laws and local goals and objectives, VDOT has developed a Public Involvement Manual ([VDOT Public Involvement Manual - Location and Design Division](#)). This document describes policies and procedures intended to give full opportunity for coordination and participation by the public before the final approval of highway locations and designs. Due to COVID-19 State restrictions, the Department is in the process of developing a public involvement plan that will incorporate virtual meetings.

Complaints

Recipients, sub-recipients, beneficiaries, or participants of VDOT's federally assisted programs, who believe they have been subjected to unequal treatment or discrimination on the ground of race, color or national origin, may exercise their right to file a complaint under the Title VI of the Civil Rights Act of 1964. See Part IV of this plan for discrimination complaint procedures.

Limited English Proficiency (LEP)

VDOT has designated the Title VI Specialist as the agency's Language Access Coordinator (LAC). The Civil Rights Division contracts out language access services to provide the following language assistance services:

- a. American Sign Language Interpretation
- b. Language Interpretation Services
 - On-site (face to face)
 - Sight Interpretation
 - Video Remote Interpretation (VRI)
 - Telephonic Interpretation (scheduled and 24/7)
- c. Document Translation Services

District personnel will coordinate requests for translation/interpreter services through their District Civil Rights Manager (DCRM). Codes have been set up for the DCRM to contact the Language Services Provider (Contractor) directly. If not, the District Civil

Rights Managers will contact the Title VI Specialist. Divisions in the Central Office will coordinate requests for translation/interpreter services through their Title VI Designee. The Designee will contact the Title VI Specialist, if not set up to obtain the services directly. VDOT Divisions that do not have a Title VI Designee will contact the Title VI Specialist directly.

Requests for services will include the name of the person requesting interpreting /translation services, and the district name and number. The Title VI Specialist will track LEP requests, by division and district. The tracking tool will include the name of the person requesting the services, the district name, the name of the document or the name of the LEP person, the date of the request, the number of hours for the interpreting assignment or the number words translated, the language interpreted/translated from and to, and any other pertinent information for tracking language services.

Written documents will be translated and sent back to the requestor and copied to the Title VI Specialist.

The Civil Rights Division's budget covers reasonable interpreting and translation services. It does not cover the cost for printing materials. In general, there is no cost to the district or division for posting translated documents on VDOT's website. If at any time in the future the Civil Rights Division budget does not include funds for language assistance, then each division will be responsible for providing language services out of their own budget. Regardless of which budget funds language access services, each division and district will take into consideration the resources available and the costs when determining the need for services. It is very important to keep in mind that costs will not be used to deny all language translation requests.

VDOT's identification of the LEP population statewide is done with a Statistical Analysis of Virginia's LEP Population based on the Four Factor Analysis. The results of this analysis are used as a guideline to determine the scope of services for the Interpreting and Translations Services contract. The analysis will also be used to make recommendations for decisions on services and resources needed statewide or per project.

VDOT's Limited English Proficiency Guidelines are included in Appendix J. The most recent Statistical Analysis of Virginia's LEP Population conducted by VDOT (VDOT's Four Factor Analysis) is included in Appendix K.

IV. DISCRIMINATION COMPLAINT PROCESS

Introduction

Any person who believes they—or a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of the Virginia Department of Transportation (VDOT)—a recipient of Federal financial assistance through the Federal Highway Administration —may file a complaint of discrimination under Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes.

Purpose

The purpose of the discrimination complaint procedure is to describe the process used by the VDOT Civil Rights Division (CRD) for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes and authorities. This process does not preclude VDOT from attempting to resolve Title VI complaints through mediation.

Where can one file?

Complaints related to the Federal-aid highway program may be filed with VDOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, and the USDOJ

When must one file?

According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

What should a complaint look like?

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call VDOT and provide the allegations by telephone. The allegations of the complaint will be transcribed as provided over the telephone and a written complaint will be sent to the complainant for correction and signature.

A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions;
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address;

- The basis of the complaint (e.g., race, color, national origin);
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.
- Complainant's signature and date of signature.

The VDOT Title VI Complaint form is included in Appendix A of this plan and is posted on the VDOT website.

How are complaints routed?

FHWA Division Offices do not investigate Title VI complaints. Likewise, VDOT and its Subrecipients do not investigate complaints filed against themselves. Finally, FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

With this understanding, complaints will be routed in the following ways:

- All complaints will be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against VDOT.
- Complaints will be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with VDOT, VDOT staff will forward the complaint to FHWA Virginia Division Office, which will forward the complaint to HCR.
- VDOT will log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Virginia Division Office and VDOT.

The complaint may be filed with VDOT's Civil Rights Division Administrator at **1401 East Broad Street, Richmond, VA 23219** or the U.S. Department of Transportation, Federal Highway Administration, Virginia Division, Office of Civil Rights, **400 North 8th Street, Suite 750, Richmond, Virginia 23219**. The form for filing a complaint with VDOT is included in Appendix A.

Complaints may also be sent to HCR directly at:

Postal Mail	Federal Highway Administration U.S. Department of Transportation Office of Civil Rights
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	1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
Email	CivilRights.FHWA@dot.gov
Fax	202-366-1599
Questions?	202-366-0693

Complaints – Processing

Complaints against VDOT

- Refer to FHWA Division or Headquarters (HCR)
- HCR investigates and HCR issues Letter of Finding (LOF)
- Division receives notification & copy of LOF

Complaints against VDOT's subrecipient

- VDOT may investigate if FHWA delegates the investigation to VDOT after acceptance.
- VDOT issues report to FHWA
- FHWA issues LOF

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

- Accept: if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the complainant, VDOT (or respondent), and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- Preliminary review: if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- Procedural Dismissal: if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, VDOT (or respondent), and FHWA Division Office a written notice that it is dismissing the complaint.

- Referral/Dismissal: if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, VDOT (or respondent), and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against subrecipients (VDOT's contractors, consultants, sub-consultants, planning organizations, cities or counties), HCR will conduct the investigation itself, or it may delegate the investigation to VDOT. If HCR chooses to delegate the investigation of a Sub-recipient, HCR will communicate its acceptance of the complaint to the complainant and VDOT (or respondent), but VDOT will conduct all data requests, interviews, and analysis.

VDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI

What are the timeframes for investigation?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

If VDOT is delegated an investigation from FHWA, VDOT must complete the investigation within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA) as stipulated in 23 CFR §200.9(b)(3). However, FHWA understands investigations may take more time to complete.

How does the Investigating Agency gather information?

There are no regulatory requirements for how information is gathered, but VDOT (and sub-recipients if applicable), are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or VDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Once FHWA starts an investigation, what are the potential outcomes?

First, at any time during the investigation, either FHWA or VDOT (or the respondent) may initiate informal negotiations to resolve the issues. The FHWA always strives to

resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator for VDOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of **no violation** and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines **the respondent has failed to comply** with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek **administrative sanctions**, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.
6. If USDOT seeks to **suspend or terminate funds**, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR.

LOFs issued by FHWA are administratively final.

V. REVIEW OF STATE DIRECTIVES

It is the responsibility of every Division Administrator to ensure that planning manuals, directives, guidelines, and policies have been reviewed for Title VI compliance purposes.

In doing so, Division Administrators must ensure that a draft of these documents be submitted to Civil Rights Division Administrator for review of Title VI or Title VII compliance. Title VI Interdisciplinary team members also assist in ensuring compliance of this requirement within each of the major operational program area they represent.

VI. TITLE VI PROGRAM NONDISCRIMINATION ASSURANCES (USDOT 1050.2A)

As a federal-aid recipient, VDOT has signed the Title VI Program Nondiscrimination Assurances, which establish an agreement to assure nondiscrimination in all of the Department's programs and activities. A copy of the Assurances signed by the Commissioner of Highways for the State of Virginia is included in the following pages.

VDOT's TITLE VI ASSURANCE and APPENDICES (USDOT 1050.2A)



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, VIRGINIA 23219-2000

Stephen C. Brich, P.E.
COMMISSIONER

TITLE VI/NONDISCRIMINATION ASSURANCES

DOT Order No. 1050.2A

The Virginia Department of Transportation (VDOT), (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation – Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Virginia Department of Transportation (VDOT) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or

improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the *Virginia Department of Transportation* also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the *FHWA* access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the *FHWA*. You must keep records, reports, and submit the material for review upon request to *FHWA*, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The *Virginia Department of Transportation* gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the *Federal-Aid Highway Program*. This ASSURANCE is binding on the *Commonwealth of Virginia*, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the *Federal-Aid Highway Program*. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Virginia Department of Transportation

by 
Stephen C. Brich, P.E.
Commissioner

DATED 9/8/2020

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

A

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *Virginia Department of Transportation* will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *Virginia Department of Transportation* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the *Virginia Department of Transportation* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the *Virginia Department of Transportation*, its successors and assigns.

The *Virginia Department of Transportation* in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the *Virginia Department of Transportation* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

B

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the *Virginia Department of Transportation* pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the *Virginia Department of Transportation* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

C

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the *Virginia Department of Transportation* pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the *Virginia Department of Transportation* will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the *Virginia Department of Transportation* will there upon revert to and vest in and become the absolute property of the *Virginia Department of Transportation* and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

D

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, And resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

E

VII. APPENDICES

Appendix A	Complaint Form
Appendix B	Complaint Log Template
Appendix C	Consultant Assessment Tool
Appendix D	Consultant Title VI Evaluation Form
Appendix E	MPO / PDC Compliance Review Procedures
Appendix F	MPO and PDC Review Forms, Compliance Letters and Letters of Findings
Appendix G	LPA's Title VI Program Self-Assessment Form
Appendix H	Public Hearing Survey Form
Appendix J	Limited English Proficiency Guidelines
Appendix K	VDOT's Four Factor Analysis
Appendix L	Data Collection Guidelines

APPENDIX A
Title VI Complaint Form



1401 E. Broad Street, Richmond, VA 23219
804.786.2085 Tel
800.508.3737 Toll Free

Form for Complaints Alleging Violations of
Title VI of the Civil Rights Act of 1964

Title VI of the 1964 Civil Rights Act requires that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The following information is necessary to assist us in processing your complaint. Should you require any assistance in completing this form, please let us know.

Complete and return this form to the Civil Rights Division: Ms. Sandra D. Norman, Civil Rights Division Administrator, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Section I

I believe that I have been (or someone else has been) discriminated against on the basis of:

- ☐ Race
- ☐ Color
- ☐ National Origin

What date did the alleged discrimination take place?

Section II

First Name: Last Name:

E-mail Address:

Postal Address:

City, State, Zip:

Telephone No.:

Home Cell:
Business:

Section III

Are you filing this complaint on your own behalf?

☐ Yes ☐ No

If not, please supply the name and relationship of the person for whom you are complaining:

Please explain why you have filed for a third party:

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party:

☐ Yes ☐ No

Are you represented by legal counsel for this matter?

☐ Yes ☐ No

If yes, please supply name and contact information:

Have you previously filed a civil rights complaint with FHWA?

☐ Yes ☐ No

Section IV

Names of specific persons, Agency or public entity alleged to have discriminated

Section V

Have you filed this complaint with any of the following agencies?

- ☐ U.S. Department of Justice
- ☐ U.S. Department of Transportation
- ☐ Federal Highway Administration (FHWA)
- ☐ Other:

Have you filed a lawsuit regarding this complaint?

Yes ☐ No ☐

If yes, please provide the case number:

Section VI

Please Include Details of Your Complaint Below. FHWA will contact you to request any additional documentation you may want to submit on behalf of your complaint.

Important: We cannot accept your complaint without a signature, please submit this form with a signature.

Complainant's Signature

Date

APPENDIX B

Complaint Log Template

[illegible]

APPENDIX C

Consultant Assessment of Title VI Compliance

VDOT is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964 (Title VI), as amended, and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, prohibits agencies receiving federal funds from discriminating against anyone or any group in the United States on the ground of race, color or national origin.

Title VI of the 1964 Civil Rights Act states that:

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The Civil Rights Restoration Act of 1987 defined the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance, rather than just the particular programs or activities that receive the funds. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable Orders and authorities provide guidelines, actions, and responsibilities for VDOT’s implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- USDOT Order 1050.2A
- Section 162 (a) of the Federal-aid Highway Act of 1973 (23 USC 324)
- Executive Order 12898 on Environmental Justice (EJ)
- Executive Order 13166 on Limited English Proficiency (LEP)

The Federal Highway Aid Highway Act of 1973 (23 USC 324) proscribes sex discrimination. The Act states that no person shall on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.

Civil Rights Restoration Act of 1987 clarified the intent of Title VI. The act states that coverage includes all programs and activities of federal aid recipients and contractors whether those programs and activities are federally funded or not.

Executive Order 12898: “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations” is a Presidential mandate to address equity and fairness toward low income and minority persons and populations. EO 12898 states that each federal agency shall make achieving EJ part of its mission by identifying, and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low income populations in the U.S., DC, Puerto Rico, and Marina Islands.

Executive Order 13166 directs federal agencies to ensure people who are limited English proficient (LEP) have meaningful access to services. EO 13166 instructs agencies and recipients to examine their services, develop and implement processes by which LEP persons can meaningfully access those services. This EO establishes the four factor analysis as guidance on how recipients and sub-recipients can provide meaningful access to LEP persons. Every recipient and sub-recipient of federal funds is directed to prepare a plan with consistent standards and steps to overcome language barriers for programs and activities. The Department of Justice is the agency who is responsible for enforcing this directive. An LEP person is a person who does not speak English as their primary language and has limited ability to read, speak, write or understand English.

By contracting with VDOT, a firm is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the Department and the selected consultant firm. VDOT's Civil Rights Division with the assistance from each applicable division's Program Manager monitors a firm's compliance with the non-discrimination provisions.

To monitor compliance, each consultant and all sub-consultants are required to submit a Title VI Evaluation Report. This requirement is applicable for all firms that are recipients or sub-recipients of federal funds.

VDOT's Title VI consultant assessment tool, *Consultant Title VI Evaluation Form*, is included in Appendix D.

APPENDIX D

VDOT Consultant Title VI Evaluation Form



Introduction

VDOT is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964, as amended and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964, prohibit agencies and sub-recipients receiving federal assistance from discriminating against anyone or any group in the United States on the ground of race, color or national origin. Other regulations and directives prohibit discrimination on the basis of sex, age, disability, or low-income. The United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) Regulations (49) Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable orders and authorities provide guidelines, actions, and responsibilities for VDOT's implementation of the Title VI Program. These laws and regulations include but are not limited to the following:

- **The 1970 Uniform Act (42 USC 4601)** – prohibits unfair treatment of displacees
- **Section 504 of the 1973 Rehabilitation Act (29 USC 790)** – prohibits discrimination based on disability
- **The Federal-Aid Highway Act 1973 (23 USC 324)** – prohibits discrimination based on gender
- **The 1975 Age Discrimination Act (42 USC 6101)** – prohibits age discrimination (any age)
- **The Civil Rights Restoration Act of 1987** – clarified the original intent of nondiscrimination organization-wide
- **Executive Order 12898 on Environmental Justice (EJ)** addresses disproportionately high and adverse human health and environmental effects on minority and low-income populations
- **Executive Order 13166 on Limited English Proficiency (LEP)** - ensures people who are limited English proficient (LEP) have meaningful access to services

In brief, these laws and regulations prohibit discrimination in federally assisted programs and activities. Title VI of the 1964 Civil Rights Act states that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving federal financial assistance.”

By contracting with VDOT, a contractor is obligated to comply with the laws and regulations listed above and within the Memorandum of Agreement (MOA) executed between the Department and the contractor. VDOT’s Civil Rights Division with the assistance from each applicable division’s Program Manager, monitors an organization’s compliance with the non-discrimination provisions.

To monitor compliance, each contractor and all sub-contractors are required to submit a Title VI Evaluation Form. This requirement is applicable for all contractors.

The Title VI Evaluation Form provides documentation that a contractor has procedures in place to prevent discrimination in programs and services based on Title VI.

VDOT will request a Title VI Evaluation Form within ten (10) days of notification of selection for new contractors or contractors that do not have a current assessment on file with VDOT. The Assessment Form should be submitted to the Program Manager in the division that is negotiating the contract. These are the divisions we currently receive Title VI Evaluation Forms from:

Right of Way & Utilities Division
Location & Design Division
Environmental Division
Structure & Bridge
Materials Division
Transportation & Mobility Planning Division

Once the Title VI Evaluation Form is provided to VDOT, the Title VI Coordinator in the Civil Rights Division reviews the information and issues a pre-award letter within fifteen (15) days of receiving documentation or may schedule an on-site review within the same time frame to confirm information provided in the Evaluation Form. VDOT Program Managers have access to a Title VI Log that is updated monthly on the Civil Rights Website. The Title VI Coordinator may request additional information and/or recommend corrective actions. The Title VI Coordinator may randomly schedule on site compliance reviews at the contractor’s office.

If the report is approved, a letter is sent out with an expiration date for one year from the date of the approval letter. Typically the letter remains current and on file with VDOT for a period of one year. An updated report is required annually for contractors who continue to perform under a contract with VDOT. It should be noted that if VDOT conducts an on site compliance review the contractor can still be found to be out of compliance during the one year period.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part.

Should you have any questions about VDOT’s Title VI Program or the Evaluation Form, contact Corina Herrera at 804-786-2730 or at corina.herrera@vdot.virginia.gov .

VDOT TITLE VI EVALUATION FORM

This Title VI Evaluation Form is used as a Pre-award Review and Post-award Review. VDOT is required to conduct routine assessments prior to releasing funds to ensure Title VI compliance. A pre-award review assists VDOT in determining whether applicants operate in a nondiscriminatory manner. Pre-award reviews can also be used to require applicants to take preventive measures to ensure that discrimination will not occur in their services as a condition of receiving contracts. Pre-award reviews represent a frontline approach to eliminating and preventing discrimination before it occurs.

Post-Award Reviews are generally conducted after a contractor begins the scope of work. However, to minimize the burden on VDOT's contractors, VDOT has developed a form that serves as both a pre-award and post-award compliance tool.

VDOT must also conduct on-site reviews of prime contractors periodically to ensure that the contractor remains in compliance with Title VI and to verify that the contractor has preventive measures to ensure nondiscrimination by their sub-contractors.

Name of Preparer:	Preparer's Title:	
Phone #:	Email Address:	
Name of Organization:	Address of Organization:	
Address of Virginia location where project will be done:		
Type of Contractor/Organization:		
<input type="checkbox"/> Private Organization <input type="checkbox"/> Governmental Agency	<input type="checkbox"/> Supplier <input type="checkbox"/> Other _____	
Workforce for Virginia Location(s)		
Total	% Minority	% Female
Business Ownership/Control Minority <input type="checkbox"/> Yes <input type="checkbox"/> No Female <input type="checkbox"/> Yes <input type="checkbox"/> No		
DBE Certified <input type="checkbox"/> Yes <input type="checkbox"/> No SWAM Certified <input type="checkbox"/> Yes <input type="checkbox"/> No		
Does your organization currently have contracts or subcontracts with VDOT? <input type="checkbox"/> Yes <input type="checkbox"/> No What is your organization's most recent date of Title VI approval?		
Status of Project(s):	Value of current Contract(s):	
What does your organization have in place to ensure nondiscrimination in your VDOT scope of work and your programs and services?		

Virginia Workforce
CONSULTANT EQUAL EMPLOYMENT OPPORTUNITY WORKFORCE ANALYSIS

Employment at this establishment – Report all permanent full and part-time employees including apprentices and on-the job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered zeros.

[illegible]

Organization, Staffing, & Training

1. What type of services will your organization provide VDOT?
[Click here to enter text.](#)
2. Identify the person responsible for the administration of Title VI policies and procedures (a Title VI Coordinator). Provide the name, position, title, and contact information. [Click here to enter text.](#)

Title VI/Nondiscrimination

1. Is your Title VI Coordinator, project managers, and other staff made aware of Title VI compliance and regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21 and the Federal Highway Administration's 23 Code of Federal Regulations 200? Please explain how they are made aware. [Click here to enter text.](#)
2. What procurement procedures does your organization have in place to ensure nondiscrimination in the selection and retention of subcontractors including procurements of materials and leases of equipment? *** Please note N/A is not an acceptable response, please provide a complete answer**
[Click here to enter text.](#)
1. How does your organization notify your subcontractors and suppliers of their obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin? *** Please note N/A is not an acceptable response, please provide a complete answer**
[Click here to enter text.](#)
4. Are facilities and meeting areas fully accessible to persons with disabilities?
[Click here to enter text.](#)
5. Does your organization have a system in place to accommodate persons with disabilities? If yes, how does your organization notify the public? If no, please explain. *** Please note N/A is not an acceptable response, please provide a complete answer**
[Click here to enter text.](#)
6. How are limited English proficient persons made aware that they can receive translation services for access to services? *** Please note N/A is not an acceptable response, please provide a complete answer**
[Click here to enter text.](#)

7. Has your organization been reviewed by any governmental agencies for compliance with Title VI and other laws and regulations? If yes, provide a copy of the letter identifying the review findings? **Click here to enter text.**
8. Does your organization receive federal assistance (grants, loans, donations of property, or detail of personnel) from any Federal government entity? **Click here to enter text.**
9. List any discrimination complaints and/or lawsuits received in Virginia during the reporting period. Include the basis for the complaint (ethnicity, gender, etc.) and summarize the outcome or resolution. If applicable, include a copy of the investigation report. **Click here to enter text.**

Disadvantaged Business Enterprises (DBE)

1. Did your organization award any contracts/subcontracts related to VDOT work to DBEs during the reporting period?

☐ Yes ☐ No

If yes, provide the following:

- a. The DBE's name and amount awarded **Click here to enter text.**
- b. Total # of contracts awarded to DBEs **Click here to enter text.**
- c. Total dollar amount of contracts awarded to DBEs **Click here to enter text.**

I certify that the data given in this report is correct to the best of my knowledge. (Report has to be submitted with original signature, not a photocopy.)

Signature:

(Authorized Officer)

(Title)

(Date)

For Office Use Only:

Provide award? Yes _____ No _____

Recommendations:

APPENDIX E

MPO/PDC Compliance Review Procedures

District Civil Rights Managers (DCRMs) will have the primary responsibility of conducting compliance reviews of MPOs and PDCs using the MPO or the PDC Compliance Review (Self-Assessment) Form. When the DCRM is unable to conduct the review or there is a conflict of interest based on a complaint against the district office from a MPO or PDC, the Title VI Specialist may assist with conducting the compliance review.

The DCRM will send the current MPO or PDC Compliance Review (Self-Assessment) Form with a 30-day deadline for returning the document. Once the self-assessment document is returned to the DCRM, the form and supporting documents will be reviewed for compliance with Title VI and LEP. The DCRM will write questions that may arise from the answers provided by the MPO or PDC on the compliance review form. If needed, a site visit will be conducted to clarify any questions and review documents and data provided on the form within 30 days of receiving the Compliance Review Form from the MPO or PDC. The DCRM will write a review report.

If no significant findings are found, the DCRM will send a letter of no significant findings within 30 days of the site visit to the MPO or the PDC and the Civil Rights Division Administrator. If non-compliance issues arise, the MPO/PDC will be issued a letter of findings, which will also be sent to the Civil Rights Division Administrator within 30 days of the site visit with recommendations for corrections and a maximum three (3) month deadline based on the items that need to be brought into compliance.

Compliance reviews of MPOs and / or PDCs will be conducted periodically. Each VDOT district will review a planning agency at least every four years. A list of the MPOs/PDCs to be reviewed will be determined at the beginning of the calendar year and a date/schedule of when the reviews will take place will be established as well. Each district and central office will maintain a log with the name of the MPO and/or PDC, the date of the review, the outcome of the review and any recommendations.

APPENDIX F
MPO and PDC Review Forms, Compliance Letters and Letters of Findings



**Metropolitan Planning Organization
Title VI Program Review Form**

This questionnaire is used to assess your organization's compliance with Title VI regulations. State Highway Agencies (SHAs) are required to review those entities to which the SHA distributes federal funds (subrecipients)(23 C.F.R. §200.9(b)(7)). VDOT is required to conduct Title VI reviews of Metropolitan Planning Organizations (MPOs) to monitor and ensure Title VI compliance. The review form assists VDOT in determining whether the MPO operates in a nondiscriminatory manner and is managing the federal-aid in compliance with Title VI Regulations.

Reporting Period (VDOT reviewer enter applicable reporting period here)

Name of MPO	
Address of MPO	
Date of Review	
Name & Title of person completing this form	

Title VI Administration
<p>1. Identify the person responsible for the administration of the Title VI policies and procedures at your Agency (Title VI Coordinator) Name: _____ Position Title: _____</p>
<p>2. Has the Title VI Coordinator participated in any form of training with specific reference to Title VI? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, what type of Training? Describe and provide date</p>
<p>3. Does the Title VI Coordinator have access to the top official at the MPO? Yes <input type="checkbox"/> No <input type="checkbox"/> Please list names of the official(s)</p>
<p>4. Does the agency have an approved Title VI Implementation Plan that documents the Agency's methods of administration of its Title VI Program? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please enter the name of the Agency that approved the Plan, provide the date of approval and attach a copy of the Plan.</p>

5. Has the agency signed the Title VI Assurances (USDOT 1050.2A)?

Yes ☐ No ☐

If YES, has the agency included the Title VI Assurances in the Title VI Implementation Plan?

Yes ☐ No ☐

Staffing

1. Identify the following for each individual who has responsibilities in the transportation component of the organization. Name, position title and race. Please attach an organizational chart.

NAME	POSITION TITLE	RACE

2. Of the positions above, identify those that are elected by citizens and those positions that are appointed by some governing authority. Identify the said governing authority.

Public Involvement

1. What efforts are made to notify the public of meetings, workshops, special sessions, etc.?

2. What efforts are made to ensure minorities, disabled, and persons with Limited English Proficiency (LEP) are aware of MPO meetings?

3. Are accommodations for translation services or special needs included in notices to the public?

Yes ☐ No ☐

If YES, please attach a sample of the most recent notice.

4. Does the MPO include minority or non-English (other languages) media in all notification processes for public meetings or public review of agency documents?

Yes ☐ No ☐

If YES, identify the media resources used by name

5. Where are MPO meetings held? _____

Please describe the meeting locations, time, days of week. Is the atmosphere conducive for public involvement?

6. Are the meetings held where bus or rail service is provided?

Yes ☐ No ☐

If NO, please explain.

7. Has your organization received any request for information in an alternative format such as Braille, Audio, or non-English?

Yes ☐ No ☐

If YES, please discuss.

8. What is your process for providing access to persons whose primary language is not English?

9. Has the MPO established any advisory or citizen's group?

Yes ☐ No ☐

If YES, describe any efforts or methods used to focus on increasing the participation of minority and non-English speaking population in the transportation planning processes.

10. Are persons traditionally underrepresented by transportation systems, such as minority or LEP population, actively sought out for involvement in MPO processes?

Yes ☐ No ☐

If YES, what methods are used?

11. Are contacts with minority or LEP groups or leaders used to identify information needs and planning/programming issues or concerns?

Yes ☐ No ☐

If YES, identify those individuals contacted during the reporting period

12. How does the MPO gather data when assessing transportation needs, projects, and impacts?

How is the data utilized to examine and evaluate the equitable distribution of benefits and burdens of transportation investments?

Note: The emphasis here is on collecting and utilizing data that reflects community boundaries, racial and ethnic makeup,

13. Are limited English proficient persons made aware that they can receive translation services at no cost to them?

Yes ☐ No ☐

If YES, identify how

Contracting - consultants

1. Did your organization award any consultant contracts during the reporting period?

Yes ☐ No ☐

If YES, identify the following.

Total dollar amount of contracts awarded: _____

Total dollar amount awarded to DBE* firms: _____

*DBE = Disadvantaged Business Enterprises

2. Please provide list of companies, the type of service and the award amount.

3. How does your organization solicit and award consultant contracts?

4. Does your organization insert the Title VI/Nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances into all solicitations for bids and requests for proposals (RFPs)?

Yes ☐ No ☐

<p>If YES, describe how this verified.</p> <p>Provide an example of a document including the paragraph.</p>
<p>5. Do contracts with consulting firms include contract provisions for Title VI? (Appendix A and Appendix E of the US Order DOT 1050.2A)</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Provide an example of a contract</p>
<p>Other</p>
<p>1. Has the MPO been reviewed recently by any governmental agencies (such as the Federal Transit Administration [FTA], Department of Labor, Department of Justice, Federal Highway Administration [FHWA], etc.) for compliance with Title VI?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If YES, please indicate the agency/agencies and provide a copy of the letter identifying the review finding(s). If the review was conducted by FTA, please attach a copy of the final report.</p>
<p>2. Have any formal or informal complaints alleging violations of the Title VI of the Civil Rights of 1964 been lodged against the MPO during the previous three years?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If YES, please provide a statement on the nature of the complaint and status of the complaint.</p>
<p>3. Does the MPO have Complaint Procedures which describe the process for investigations and disposition of Title VI complaints that conforms to the FHWA complaints procedures?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If YES, what is the MPO's process for complaints alleging violations of Title VI? Please describe the process for receiving, investigating, and resolving those complaints?</p>
<p>4. Identify any significant Title VI related issues and/or changes that have occurred during the reporting period.</p>
<p>5. Identify all individuals by name and title that are anticipated to attend an on-site Title VI compliance review if one is needed.</p>
<p>Catalog of Title VI related data to be submitted for this assessment</p>
<ul style="list-style-type: none"> • Professional Services Contracts - Bidding: Submit an advertisement/RFP applicable to the reporting period • Professional Services Contracts - Provisions: Submit a contract agreement applicable to the reporting period • Public Involvement – Submit public meetings records to include number of meetings, ads, meeting attendees' demographic data (collected at the meeting, comments collected both formally and informally) applicable to the reporting period.

For Office Use Only:

Findings / Conclusions

Compliance: _____ Non-compliance: _____

Review conducted by: _____

Approved by: _____ **Date:** ____/____/____

MPO Review - Compliance Letter template

Date

Name of Representative

Title

Name of MPO

Address

Re: MPO Title VI Compliance Review

Dear _____:

This letter is in reference to *(enter name of MPO)* Metropolitan Planning Organization's *(enter year)* Title VI compliance review conducted by the Virginia Department of Transportation (VDOT). The *(enter name of MPO)* MPO is a recipient of Federal Highway Administration funding assistance and is therefore subject to a Title VI Program review.

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*, prohibits discrimination on the basis of race, color, and national origin in federally funded programs and activities. In addition to Title VI there are other Nondiscrimination laws and regulations that afford legal protection on the basis of sex, age, disability, and limited English proficiency by sub-recipients of federal assistance.

After reviewing all of the submitted materials, we have determined that there are NO CURRENT VIOLATIONS of Title VI or related laws and regulations. Although no deficiencies in the implementation of the PDC's responsibilities under the Title VI Program were found, one advisory comment was issued OR *(enter number of advisory comments provided)* advisory comments were issued. These advisory comments were issued in the area(s) of *(enter name of area, i.e. Title VI Complaint Procedures)*. The VDOT Civil Rights Office recommends that you take into consideration these advisory comments in the administration, oversight, implementation and self-assessment of your Title VI Program as well as in the development and updates of your Title VI Plan and related documents.

If you have any questions regarding this letter, please contact your District Civil Rights Manager at *(enter your phone number)* or the Title VI Specialist at (804)786-2730.

Sincerely,

Name

Title

District

Civil Rights Division

Virginia Department of Transportation

Cc: VDOT Civil Rights Division Administrator

MPO Review Letter of Findings

Date

Name of Representative

Title

Name of MPO

Address

City / State, and Zip Code

Dear _____:

This letter is in reference to (*enter name of MPO*) Metropolitan Planning Organization's (*enter year*) Title VI compliance review conducted by the Virginia Department of Transportation (VDOT). As a result of your MPO Title VI Compliance Review, VDOT has found deficiencies in the implementation of your responsibilities under the Title VI Program. The following deficiencies must be corrected by _____.

List of Deficiencies

- 1.
- 2.
- 3.

Your failure to take actions regarding the above issues could result in your federal funding assistance being canceled, terminated, or suspended.

We encourage you to take corrective actions to resolve this matter and we are anxious to assist you in achieving compliance. If you have any questions regarding this letter, please contact me at _____.

Sincerely,

Name

Title

District

Civil Rights Division

Virginia Department of Transportation

Cc.: VDOT Civil Rights Division Administrator



Planning District Commission (PDC) Title VI Program Review Form

This questionnaire is used to assess your organization's compliance with Title VI regulations. State Highway Agencies (SHAs) are required to review those entities to which the SHA distributes federal funds (subrecipients)(23 C.F.R. §200.9(b)(7)). VDOT is required to conduct Title VI reviews of Metropolitan Planning Organizations (MPOs) to monitor and ensure Title VI compliance. The review form assists VDOT in determining whether the MPO operates in a nondiscriminatory manner and is managing the federal-aid in compliance with Title VI Regulations.

Reporting Period (VDOT reviewer enter applicable reporting period here)

Name of PDC	
Address of PDC	
Date of Review	
Name & Title of person completing this form	

Title VI Administration
<p>1. Identify the person responsible for the administration of the Title VI policies and procedures at your Agency (Title VI Coordinator)</p> <p>Name: _____ Position Title: _____</p>
<p>2. Has the Title VI Coordinator participated in any form of training with specific reference to Title VI? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, what type of Training? Describe and provide date</p>
<p>3. Does the Title VI Coordinator have access to the top official at the PDC? Yes <input type="checkbox"/> No <input type="checkbox"/> Please list names of the official(s)</p>
<p>4. Does the agency have an approved Title VI Implementation Plan that documents the Agency's methods of administration of its Title VI Program? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, please enter the name of the Agency that approved the Plan, provide the date of approval and attach a copy of the Plan.</p>
<p>5. Has the agency signed the Title VI Assurances (USDOT 1050.2A)? Yes <input type="checkbox"/> No <input type="checkbox"/></p>

If YES, has the agency included the Title VI Assurances in the Title VI Implementation Plan?
Yes ☐ No ☐

Staffing

1. Identify the following for each individual who has responsibilities in the transportation component of the organization. Name, position title, and race. Please attach an organizational chart.

NAME	POSITION TITLE	RACE

2. Of the positions above, identify those that are elected by citizens and those positions that are appointed by some governing authority. Identify the said governing authority.

Public Involvement

1. What efforts are made to notify the public of meetings, workshops, special sessions, etc.?

2. What efforts are made to ensure minorities, disabled, and persons with Limited English Proficiency (LEP) are aware of PDC meetings?

3. Are accommodations for translation services or special needs included in notices to the public?
Yes ☐ No ☐
If YES, please attach a sample of the most recent notice.

4. Does the PDC include minority or non-English (other languages) media in all notification processes for public meetings or public review of agency documents?
Yes ☐ No ☐
If YES, identify the media resources used by name

5. Where are PDC meetings held? _____
Please describe the meeting locations, time, days of week. Is the atmosphere conducive for public involvement?

6. Are the meetings held where bus or rail service is provided?
Yes ☐ No ☐
If NO, please explain.

7. Has your organization received any request for information in an alternative format such as Braille, Audio, or non-English?
Yes ☐ No ☐
If YES, please discuss.

8. What is your process for providing access to persons whose primary language is not English?
9. Has the PDC established any advisory or citizen's group? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, describe any efforts or methods used to focus on increasing the participation of minority and non-English speaking population, in the transportation planning processes.
10. Are persons traditionally underrepresented by transportation systems, such as minority or LEP population, actively sought out for involvement in PDC processes? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, what methods are used?
11. Are contacts with minority groups or leaders used to identify information needs and planning/programming issues or concerns? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify those individuals contacted during the reporting period
12. How does the PDC gather data when assessing transportation needs, projects, and impacts? How is the data utilized to examine and evaluate the equitable distribution of benefits and burdens of transportation investments? Note: The emphasis here is on collecting and utilizing data that reflects community boundaries, racial and ethnic makeup, community services, etc.
13. Are limited English proficient persons made aware that they can receive translation services at no cost to them? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify how
Contracting – consultants
1. Did your organization award any consultant contracts during the reporting period? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, identify the following. Total dollar amount of contracts awarded: _____ Total dollar amount awarded to DBE* firms: _____ <small>*DBE = Disadvantaged Business Enterprises</small>
2. Please provide a list of companies, the type of service and the award amount.
3. How does your organization solicit and award consultant contracts?
4. Does your organization insert the Title VI/Nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances into all solicitations for bids and requests for proposals (RFPs)? Yes <input type="checkbox"/> No <input type="checkbox"/> If YES, describe how this verified.

Provide an example of a document including the paragraph.

5. Do contracts with consulting firms include contract provisions for Title VI? (Appendix A and Appendix E of the US Order DOT 1050.2A)

Yes ☐ No ☐

Provide an example.

Other

1. Has the PDC been reviewed recently by any governmental agencies (such as the Federal Transit Administration [FTA], Department of Labor, Department of Justice, or the Federal Highway Administration [FHWA]), for compliance with Title VI or other Equal Opportunity programs?

Yes ☐ No ☐

If YES, please indicate the agency/agencies and provide a copy of the letter identifying the review finding(s). If the review was conducted by FTA, please attach a copy of the final report.

2. Have any formal or informal complaints alleging violations of the Title VI of the Civil Rights of 1964 been lodged against the MPO during the previous three years?

Yes ☐ No ☐

If yes, please provide a statement on the nature of the complaint and status of the complaint.

3. Does the PDC have Complaint Procedures which describe the process for investigations and disposition of Title VI complaints that conforms to the FHWA complaints procedures?

If YES, what is the PDC's process for complaints alleging violations of Title VI? Please describe the process for receiving, investigating, and resolving those complaints?

4. Identify any significant Title VI related issues and/or changes that have occurred during the reporting period.

5. Identify all individuals by name and title that are anticipated to attend an on-site Title VI compliance review if one is needed.

Catalog of Title VI related data to be submitted for this assessment

- Professional Services Contracts - Bidding: Submit an advertisement/RFP applicable to the reporting period
- Professional Services Contracts - Provisions: Submit a contract agreement applicable to the reporting period
- Public Involvement – Submit public meetings records to include number of meetings, ads, meeting attendees' demographic data (collected at the meeting, comments collected both formally and informally) applicable to the reporting period.

For Office Use Only:

Findings / Conclusions

Compliance: _____ Non-compliance: _____

Review conducted by: _____

Approved by: _____

Date: ____ / ____ / ____

PDC Review - Compliance Letter

Date

Name of Representative

Title

Name of PDC

Address

Re: PDC Title VI Compliance Review

Dear _____:

This letter is in reference to *(enter name of PDC)* Planning District commission's *(enter year)* Title VI compliance review conducted by the Virginia Department of Transportation (VDOT). The *(enter name of PDC)* PDC is a recipient of Federal Highway Administration funding assistance and is therefore subject to a Title VI Program review.

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., prohibits discrimination on the basis of race, color, and national origin. Specifically, 42 USC 2000d states that *"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

After reviewing all of the submitted materials, we have determined that there are NO CURRENT VIOLATIONS of Title VI or related laws and regulations. Although no deficiencies in the implementation of the PDC's responsibilities under the Title VI Program were found, one advisory comment was issued OR *(enter number of advisory comments provided)* advisory comments were issued. These advisory comments were issued in the area(s) of *(enter name of area, i.e. Title VI Complaint Procedures)*. The VDOT Civil Rights Office recommends that you take into consideration these advisory comments in the administration, oversight, implementation and self-assessment of your Title VI Program as well as in the development and updates of your Title VI Plan and related documents.

If you have any questions regarding this letter, please contact me at _____.

Sincerely,

Name

Title

District

Civil Rights Division

Virginia Department of Transportation

Cc: VDOT Civil Rights Division Administrator

PDC Review Letter of Findings

Date

Name of Representative

Title

Name of PDC

Address

City / State, and Zip Code

Dear _____:

This letter is in reference to *(enter name of PDC)* Planning District Commission's *(enter year)* Title VI compliance review conducted by the Virginia Department of Transportation (VDOT). As a result of your PDC Title VI Compliance Review, VDOT has found deficiencies in the implementation of your responsibilities under the Title VI Program. The following deficiencies must be corrected by _____.

List of Deficiencies

- 1.
- 2.
- 3.

Your failure to take actions regarding the above deficiencies could result in your federal funding assistance being canceled, terminated, or suspended.

We encourage you to take corrective actions to resolve this matter and we are anxious to assist you in achieving compliance. If you have any questions regarding this letter, please contact your District Civil Rights Manager at _____.

Sincerely,

Name

Title

District

Civil Rights Division

Virginia Department of Transportation

Cc.: VDOT Civil Rights Division Administrator

APPENDIX G
Local Public Agency Title VI Program Self-Assessment Form



Local Public Agency (LPA)
Title VI Program Self- Assessment Form

This questionnaire is used to assess your organization's compliance with Title VI regulations. State Highway Agencies (SHAs) are required to review those entities to which the SHA distributes federal funds (subrecipients)(23 C.F.R. §200.9(b)(7)). VDOT is required to conduct Title VI reviews of Local Public Agencies (LPAs) receiving federal-aid thru VDOT in order to monitor and ensure Title VI compliance. The review form assists VDOT in determining whether the LPA operates in a nondiscriminatory manner and is managing the federal-aid in compliance with Title VI Regulations

Reporting Period (VDOT reviewer enter applicable assessment period here)

Name of Local Public Agency	
Address of Local Public Agency	
Date of Assessment	
Name & Title of person completing this form	

Administration: Staff Composition and Title VI Program Administration

3. Provide breakdown of your staff that has responsibilities in the transportation component of your agency by identifying the following for each individual: name, position title, and race. Please attach an organizational chart.

NAME	POSITION TITLE	RACE

4. How many federally funded projects has your agency managed over the last two years?

What is the total dollar amount?

5. Has your agency designated a Title VI Coordinator who is responsible for the administration of the Title VI policies and procedures?

Yes ☐ No ☐

If YES, please provide the following:

Name:

Position Title:

4. Does the Title VI Coordinator have direct access to the top official of your agency?

Yes ☐ No ☐

Please list names of the official(s)

5. Does your Agency have a Title VI Policy and Title VI Implementation Plan in place? Please check all that apply and provide copies as indicated.

Title VI Policy ☐

Title VI Implementation Plan ☐ Please attach a copy

6. If you indicated that your agency does have a Title VI Policy, has this policy been disseminated within the organization and to the public?

Yes ☐ No ☐

If YES, please provide proof of dissemination.

7. Has the agency signed the Title VI Assurances (USDOT 1050.2A)?

Yes ☐ No ☐

If YES, has the agency included the Title VI Assurances in the Title VI Implementation Plan?

Yes ☐ No ☐

Training

3. Has your staff received any training (formal or informal) regarding Title VI?

Yes ☐ No ☐

4. Has the Title VI coordinator participated in any form of training with specific reference to Title VI?

Yes ☐ No ☐

If YES, what type of Training? *(i.e. webinar, in-class training with instructor, internet modules)*

Describe and provide date

Public Involvement

1. What efforts are made to notify the public of meetings, workshops, special sessions, etc.?

2. What efforts are made to ensure minorities, disabled, and persons with Limited English Proficiency (LEP) are aware of public meetings?

3. Are accommodations for special needs or interpreting / translation included in notices to the public?

Yes ☐ No ☐

If YES, please attach samples of notices.

4. Does your agency include minority or non-English (other languages) media in all notification processes for public meetings or public review of agency documents?

Yes ☐ No ☐

If YES, identify the media resources used (by name)

5. Where are public meetings held? _____

Please describe the meeting locations, time, days of week. Is the atmosphere conducive for public involvement?

6. Are the meetings held where bus or rail service is provided?

Yes ☐ No ☐

If NO, please explain.

7. Has your organization received any request for information in an alternative format such as Braille, Audio, or non-English?

Yes ☐ No ☐

If YES, please discuss.

8. Are limited English proficient persons made aware that they can receive translation services at no cost to them?

Yes ☐ No ☐

If YES, identify how

9. Does your agency monitor attendance broken down by race and ethnicity and by LEP and disabilities requiring accommodations?

Yes ☐ No ☐

If YES, identify how it is monitored and attach any forms if applicable.

10. Has your agency established any advisory or citizen's group?

Yes ☐ No ☐

If YES, describe any efforts or methods used to focus on increasing the participation of minority and non-English population in the transportation planning processes.

11. Are persons traditionally underrepresented by transportation systems, such as minority or LEP population, actively sought out for involvement in transportation planning processes?

Yes ☐ No ☐

If YES, what methods are used?

12. Are contacts with minority or LEP groups or leaders used to identify information needs and planning/programming issues or concerns?

Yes ☐ No ☐

If YES, identify those individuals contacted during the reporting period

13. How does your agency gather data when assessing transportation needs, projects, and impacts?

How is the data utilized to examine and evaluate the equitable distribution of benefits and burdens of transportation investments?

Note: The emphasis here is on collecting and utilizing data that reflects community boundaries, racial and ethnic makeup.

Contracting – consultants activities

- Did your organization award any consultant contracts during the reporting period?

Yes ☐ No ☐

If YES, identify the following.

Total dollar amount of contracts awarded: _____

Total dollar amount awarded to DBE* firms: _____

*DBE = Disadvantaged Business Enterprises

- Please provide list of companies, the type of service and the award amount.

- How does your organization solicit and award consultant contracts?

- Does your organization insert the Title VI/Nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances into all solicitations for bids and requests for proposals?

Yes ☐ No ☐

If YES, describe how this verified.

- Do contracts with consulting firms include contract provisions for Title VI (Appendix A and Appendix E of USDOT 1050.2A)

Yes ☐ No ☐

Provide an example.

Construction and Maintenance Activities

2. Are minority contractors and subcontractors being informed about contracting opportunities with your agency?

Yes ☐ No ☐

Provide an example.

3. Are Title VI assurances being included in all contracts, subcontracts, and material supply agreements?

Yes ☐ No ☐

Provide an example.

Right of Way Activities

1. Is Title VI Language being incorporated in all acquisition, negotiation, property management communications, and contracts?

Yes ☐ No ☐

2. Do deeds, permits, and leases contain Title VI compliance clauses?

Yes ☐ No ☐

3. Are Title VI language and assurance statements being included in all surveys for property owners and tenants after the conclusion of all business?

Yes ☐ No ☐

4. Is statistical data being gathered on race, color, national origin and limited English proficiency for all relocates?

Yes ☐ No ☐

Complaints Procedures

1. Does your agency have written Complaint procedures which describe the process for responding, recording, and resolving Title VI complaints (external discrimination complaints) that conforms to the FHWA complaints procedures?

Yes ☐ No ☐

If YES, please provide a copy of procedures.

2. How are the complaint procedures communicated to the public? Explain.

3. Have any formal or informal complaints alleging violations of the Title VI of the Civil Rights Act of 1964 been lodged against your Agency during the past three years?

Yes ☐ No ☐

If YES, please list them below and provide date(s), status and the outcome(s).

Other

1. Has your agency been reviewed recently by any governmental agencies (such as the Federal Transit Administration [FTA], Department of Justice, Federal Highway Administration [FHWA], etc.) for compliance with Title VI?

Yes ☐ No ☐

If YES, please indicate the agency/agencies and provide a copy of the letter identifying the review finding(s). If the review was conducted by FTA, please attach a copy of the final report.

2. Identify any significant issues and/or changes that have occurred during the reporting period.

4. Identify all individuals by name and title that are anticipated to attend an on-site Title VI compliance review if one is needed.

Catalog of Title VI related data to be submitted for this assessment

- Professional Services Contracts - Bidding: Submit an advertisement/RFP applicable to the reporting period
- Professional Services Contracts - Provisions: Submit a contract agreement applicable to the reporting period
- Public Involvement – Submit public meetings records to include number of meetings, ads, meeting attendees' demographic data (collected at the meeting, comments collected both formally and informally) applicable to the reporting period.

For Office Use Only:

Findings / Conclusions

Compliance: _____ Non-compliance: _____

Review conducted by: _____

Approved by: _____ **Date:** _____ / _____ / _____

APPENDIX H

Public Hearing Survey Form



Demographic Survey

Pursuant to Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities, the Virginia Department of Transportation collects responses to the questions below in order for us to evaluate access to public meetings for ALL persons in the community. Disclosure of this information is strictly voluntary and anonymous.

1. Please check the block for the racial group and the ethnicity with which you identify:

☐ White

- ☐ German ☐ Irish ☐ English
☐ Italian ☐ Polish ☐ French

Print for example: Scottish, Norwegian, etc.

☐ Black / African American

- ☐ African American ☐ Jamaican ☐ Haitian
☐ Nigerian ☐ Ethiopian ☐ Somali

Print for example: Ghanian, South African etc.

☐ Hispanic / Latino or Spanish

- ☐ Mexican or Mexican American ☐ Puerto Rican
☐ Cuban ☐ Dominican ☐ Salvadoran

Print for example: Guatemalan, Spaniard etc.

☐ Middle Eastern or North African

- ☐ Lebanese ☐ Iranian ☐ Egyptian
☐ Syrian ☐ Moroccan ☐ Algerian

Print for example: Israeli, Iraqi, etc.

☐ American Indian / Alaskan Native

☐ Asian

- ☐ Chinese ☐ Filipino ☐ Asian Indian
☐ Vietnamese ☐ Korean ☐ Japanese

Print for example: Pakistani, Cambodian, etc.

☐ Native Hawaiian or other Pacific Islander

- ☐ Native Hawaiian ☐ Samoan ☐ Fijian
☐ Chamorro ☐ Tongan ☐ Marshallese

Print for example: Palauan, Tahitian etc.

☐ Some other Race or Ethnicity

2. Please indicate your age group:

- ☐ 18-25 ☐ 26-39 ☐ 40-65 ☐ Over 65

3. Please indicate how you found out about this public meeting:

- ☐ Internet ☐ Newspaper
☐ Flyer ☐ Other

4. Were special accommodations to access the meeting facility requested?

- ☐ Yes ☐ No
If yes, were the accommodations received?
☐ Yes ☐ No

5. Do you speak a language other than English?

- ☐ Spanish ☐ French ☐ Korean
☐ Arabic ☐ Tagalog
☐ Other

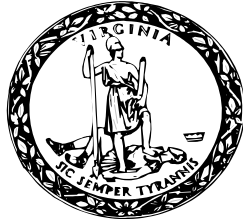
6. Were special accommodations such as language translation, sign language, Braille or large print documents, etc. requested for participation in this public forum?

- ☐ Yes ☐ No
If yes, were the accommodations received?
☐ Yes ☐ No

For Office Use Only

Project Name	
State Project Number	
Federal Project Number	
Project Location	
Type of Meeting	
Date of Meeting	
Title VI Impact	<input type="checkbox"/> No <input type="checkbox"/> Yes, explain
Recommendation	

APPENDIX J
Limited English Proficiency Guidelines



LIMITED ENGLISH PROFICIENCY GUIDELINES



Civil Rights

TABLE OF CONTENTS

I. LIMITED ENGLISH PROFICIENCY STATEMENT OF COMMITMENT

II. INTRODUCTION

III. GUIDANCE STATEMENT FOR INTERPRETER SERVICES

IV. LEGAL AUTHORITY

V. AGENCY GUIDELINES FOR FULL PARTICIPATION OF LEP PERSONS

1. Implementation
2. Inventory of agency resources for Language Assistance Services ("LAS")
3. Situational needs assessment
4. District Offices
5. Central Office
6. Agency Documents
7. Adjudication of Complaints
8. Questions & Answers

VI. APPENDICES

Appendix A: Executive Order 13166

Appendix B: U.S. DOT LEP Guidance – Federal Register

Appendix C: VDOT Title VI Complaint Form

Appendix D: Language Flashcards

Appendix E: FHWA Memorandum Dated April 7, 2006

Appendix F: Language Survey

I. Limited English Proficiency Statement of Commitment

The Commonwealth of Virginia, Department of Transportation, (VDOT) will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulations (CFR) Part 21, 23 CFR Part 200, Executive Orders (EO) and other applicable directives. Title VI of the Civil Rights Act of 1964 prohibits agencies receiving federal financial assistance from discriminating against anyone or any group in the United States on the ground of race, color, national origin. Specifically, 42 USC 2000d states that: *“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”*

As a recipient of federal-aid funding, VDOT is committed to nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. VDOT's Limited English Proficiency (LEP) Guidelines clarify VDOT's fulfillment of responsibilities to LEP persons, pursuant to Executive Order 13166, entitled “Improving Access to services for persons with Limited English Proficiency” and other USDOT and FHWA Orders and directives effectuating EO 13166. VDOT will take reasonable steps to ensure meaningful access to the agency's programs, activities, services and information that are normally provided in English are accessible to LEP persons. VDOT is cognizant of the fact that failure to ensure that LEP persons can effectively participate in federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964.

The key to providing meaningful access to LEP persons is to ensure that LEP beneficiaries can communicate effectively and act appropriately based on that communication. The Department will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by VDOT takes reasonable steps to ensure meaningful access to VDOT recipients' programs and activities. Districts and divisions will collect and maintain demographic statistics on persons who participate in their programs and services. In addition, every district and division will post written notices in a public area regarding the right to free language assistance for persons conducting business with the Department in the most frequently encountered or likely to be encountered languages.

Allegations of discrimination will be brought to the immediate attention of the Civil Rights Division Administrator or a District Civil Rights Manager.

II. Introduction

The Virginia Department of Transportation (VDOT) is a recipient of federal financial assistance. As a recipient, VDOT is required to comply with Title VI of the Civil Rights Act of 1964 (Title VI), as amended, and other nondiscrimination laws and authorities. Title VI of the Civil Rights Act of 1964 prohibits agencies receiving federal financial assistance from discriminating against anyone or any group in the United States on the ground of race, color, national origin. Specifically, 42 USC 2000d states that: *“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”*

The Civil Rights Restoration Act of 1987 defined the word “program” to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal financial assistance, rather than just the particular programs or activities that receive the funds. The United States Department of Transportation (USDOT) and the Federal Highway Administration (FHWA) Regulations 49 Code of Federal Regulations (CFR), Part 21, and 23 CFR, Part 200 respectively, and other applicable Executive Orders and authorities provide guidelines, actions, and responsibilities for State DOTs’ implementation of the Title VI Program.

English is the predominant language of the United States. The United States is, however, home to millions of national origin minority individuals who are “limited English proficient” (LEP). That is, they cannot speak, read, write or understand the English language at a level that permits them to interact effectively. Because of these language differences and their inability to speak or understand English, LEP persons may often be excluded from programs, benefits and/or activities of agencies receiving Federal financial assistance.

Presidential Executive Order (EO) 13166 entitled “Improving Access to Services for Persons with Limited English Proficiency” was intended to improve access to federally conducted and assisted programs for persons who are LEP. The USDOT issued its “Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient (LEP) Persons” to effectuate EO 13166. The policy guidance requires recipients of Federal financial assistance to develop and implement guidance on how the recipient will assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance.

VDOT’s LEP guidance provides procedures that will assist VDOT in complying with Title VI responsibilities to ensure meaningful access to all programs, activities and/or benefits for LEP persons.

III. Guidance Statement for Interpreter Services

The ability of individuals to communicate with and understand LEP persons is essential to the ability to participate in VDOT's programs, services and activities. To ensure that every individual, regardless of his or her native language, has access to and may participate in agency programs, VDOT is committed to providing appropriate interpreter services to individuals with limited English proficiency (LEP), to the extent possible.

The provision of appropriate interpreter services is central to the integrity of all programs, services and activities, ensuring that those with limited English proficiency can understand and participate in a meaningful manner. A stakeholder's ability to access VDOT's services and programs requires that the individual's language needs be met to ensure clear communication, access and input.

VDOT's procedures for the provision of interpreter services and translated documents are intended to ensure meaningful access for LEP persons. The procedures also promote the autonomy of district and residency offices to determine the mix of resources available for their use such as local governments, non-profit organizations, libraries, staff and other resources.

IV. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall “on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity “to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.” 42 U.S.C. 2000d-1.

Department of Justice regulations promulgated pursuant to section 602 forbid recipients from “utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.” 28 CFR 42.104(b)(2). DOT’s Title VI regulations include almost identical language in this regard. *See* 49 CFR 21.5(b)(vii)(2) (portions of these regulations are provided in Appendix A).

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In *Lau*, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. “Improving Access to Services for Persons With Limited English Proficiency,” 65 FR 50121 (August 16, 2000). Under that order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how its recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding recipients from “restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program” or from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.”

On that same day, DOJ issued a general guidance document addressed to “Executive Agency Civil Rights Officers” setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. “Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency,” 65 FR 50123 (August 16, 2000) (DOJ’s General LEP Guidance).

Pursuant to Executive Order 13166, DOT developed its own guidance document for recipients and initially issued it on January 22, 2001, “DOT Guidance to Recipients on Special Language

Services to Limited English Proficient (LEP) Beneficiaries.’’ However, in light of the public comments received and the Assistant Attorney General’s October 26, 2001, clarifying memorandum, DOT has revised its LEP guidance to ensure greater consistency with DOJ’s revised LEP guidance, published June 18, 2002, and other agencies’ revised LEP guidance. 67 FR 117 (June 18, 2002).

V. Agency Guidelines for Full Participation by LEP Persons

1. Implementation

The Title VI Specialist is responsible for monitoring agency programs and activities to ensure meaningful access for LEP persons. The VDOT has designated the Title VI Specialist as the agency's Language Access Coordinator (LAC).

2. VDOT Resources for Language Assistance Services (LAS).

A. Language Services Provider's contract overview and scope

Contract Overview

The Civil Rights Division has established a contract to provide statewide translation and interpreter services to the Virginia Department of Transportation. The Department wants to ensure meaningful access to persons with limited English proficiency. Language translation and interpretation services are available through the Civil Rights Division (Central Office and District Civil Rights Offices).

Contract Scope

The scope of the contract is to provide language services for document translation, over-the-phone interpreting (OPI line), and in-person interpretation. These services shall include, but shall not be limited to the 10 languages most commonly spoken by Virginia's limited English proficient population (Core languages) according to the American Census Bureau. VDOT has completed the required four factor analysis to determine the core languages for its contract.

B. Language Services Provider (LSP) ordering procedure

District personnel will coordinate requests for translation/interpreter services through their District Civil Rights Manager. In some situations, access codes may be set up for district staff to contact the Contractor directly. If not, the District Civil Rights Managers will contact the Title VI Specialist. VDOT Divisions in the Central Office will coordinate requests for translation/interpreter services through their Title VI Designee who can either contact the Title VI Specialist or request an access code to contact the Contractor directly. Divisions that have not assigned a Title VI Designee will contact the Title VI Specialist directly.

Requests for services will include the name of the person requesting translation services, and the district name and number. The Title VI Specialist will maintain a record of LEP requests, by division and district. The records will include the name of the person requesting translation services, the district name, the name of the

document or the name of the LEP person, the date of the request, the number of hours or words that was translated, the language translated from and to and any other pertinent information for tracking language services.

Each requestor may fill out an evaluation form to evaluate the services performed by the Contractor. The evaluation forms will be sent directly to the Title VI Specialist.

The procedure to request assistance with document translations is the same. The documents will be translated and sent back to the requestor with a copy for the Title VI Specialist.

C. Cost for Services

The Civil Rights Division contracts out language access services. The Civil Rights Division's budget covers reasonable document translation services. It does not cover the cost for printing materials. In general, there is no cost to the district or division for posting translated documents on VDOT's website. If at any time in the future the Civil Rights Division budget does not include funds for a language contract, then each division will be responsible for providing language services out of their own budget. Regardless of which budget funds language access services, each division and district will take into consideration the resources available and the costs when determining the need for services. It is very important to keep in mind that costs will not be used to deny all language translation requests.

All Language Assistance Services will be made available to LEP persons at the expense of VDOT, where the circumstances indicate the provision of LEP services is appropriate or required.

D. Monitoring, Evaluating and Training

The Title VI Coordinator along with management, District Civil Rights Managers, the Title VI Specialist and Title VI Designees will identify language service needs and strategies for responding to those needs. The Title VI Specialist in the Civil Rights Division is responsible for monitoring agency programs and activities to ensure meaningful access for LEP persons. The Title VI Specialist may be contacted by calling (804) 786-2730 or by email at corina.herrera@vdot.virginia.gov.

The Civil Rights Division Administrator has designated the Title VI Specialist as the agency's Language Access Coordinator (LAC). The LAC's duties include:

- Ensuring identification and securing of existing and needed resources (in-house, new hires contract, resource sharing with other agencies, volunteers, or other) to provide oral and written language services.
- Identifying and developing or recommending guidelines to implement the Plan.

- Identifying criteria for designation of languages for initial round of translation, based on demographic data;
- Identifying systems to distribute translated documents, post electronically, and maintain supply;
- Identifying training needs and provide for training to LEP Monitors, staff, and managers needing to use language services, as well as language service providers on staff.
- Establishing protocols for ensuring quality, timeliness, cost-effectiveness, and appropriate levels of confidentiality in translations, interpretation, and bilingual staff communications.
- Reviewing the progress of VDOT on an annual basis in providing meaningful access to LEP persons, develop reports, and modify [recommend modification to] LEP Guidelines as appropriate.

Limited English Proficiency Monitors

Civil Rights Managers and Title VI Interdisciplinary Designees will serve as LEP Monitors for divisions and districts. LEP Monitor duties include:

- Working with the Language Coordinator to identify needs and strategies for meeting those needs so that staff will have access to appropriate language services.
- Ensuring the facility's compliance with the LEP Guidelines, including any implementation.
- Providing training/information to staff on implementation of LEP Guidelines.
- Establishing and maintaining the Agency's language assistance resource list, ensuring competency; revise the list as needed.
- Maintaining data on requests from LEP persons and provide reports to management and the LEP Coordinator, as appropriate.

District Civil Rights Managers:

DISTRICT	District Civil Rights Managers	PHONE #
Bristol	Mary Ann Altum	276-645-1677
Culpeper	Lydell Fortune	540-829-7391
Fredericksburg	Carla Miller	540-899-4562
Hampton Roads	Queen Crittendon	757-956 -3000
Lynchburg	Phyllis A. Brice	434-856-8169
Northern VA	Leslie Martin	703-259-1775
Richmond	Ferrell Solomon	804-524-6091
Salem	Lori Law	540-387-5552
Staunton	Donna Brown	540-332-7888

Title VI Interdisciplinary Team Designees:

DIVISION	DESIGNEE	PHONE #
Construction	Anne Hall	804-482-7889
Planning	Katherine Graham	804-786-4198
Location & Design	Emmett Heltzel	804-786-0121
Virginia Transportation Research Council (VTCR)	Cindy Perfater & Donna Cognata	434-293-1992 434-293-1957
Right of Way	Audrey Ross	804-786-1589
Structure & Bridge	Patrick Mancuso	804-786-1529
Traffic Engineering	Carol Williams	804-786-1013
Consultant Procurement Office	Tracy Wood	804-786-9691
Environmental	Scott Smizik	804-371-4082
Materials Division	Shirley Perrin	804-786-3926
Administrative Services	Opal Revels	804-786-1589
Maintenance	Joseph Williams Trumekia Leonards (alternate)	804-786-0783 804-371-6744
Local Assistance	Cynthia Clark	804-371-6289
Federal Programs Management	Larrie Henley	804-786-7458

VDOT will conduct a survey to determine the level of internal resources available for language services. This survey will seek to find out what languages are spoken by staff in addition to English; whether the individual can read, write and/or speak the language; and the level of fluency. The results of this assessment will be kept by Civil Rights Division and may be accessed for impromptu/emergency situations that do not allow for quick access to the Language Services Contractor.

Training

VDOT staff members should know their obligations to provide meaningful access to information and services for LEP persons.

Management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff. As mentioned above, training will be provided by the Title VI Specialist, District Civil Rights Managers and Title VI Designees.

To ensure consistent standards, translation services will be provided by a professional provider/firm based on the factors listed in 2.A. Bilingual staff may be utilized on a limited basis when LAS are not anticipated or available.

3. Situational Needs Assessment

The agency will, on a continuing basis, assess the need for language services on a district and/or statewide basis and make LAS available as deemed appropriate. Prior to the development of its LEP Plan of Action, VDOT examined the prevalence of LEP stakeholders statewide, by district and/or by service area of program using the following four factors:

- The number or proportion of LEP persons served or encountered in the eligible service population
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service to people's lives
- The resources available to VDOT and costs to provide LEP services

In making this assessment, the agency considered the following among other data sources:

- United States census results
- Data maintained by the agency
- The agency's past experience in providing services to LEP stakeholders

A. Identifying the LEP service needed in a particular situation

The identification of the type of LEP service needed for each particular instance will vary depending on how VDOT is contacted by the LEP individual:

In-person Contact

Contact the District Civil Rights Manager, the Title VI Designee or the Title VI Specialist to request an interpreter. The interpreter will identify the language need of the LEP person and provide them with an interpreter. If one of these persons cannot be reached, use the "I speak...cards" to attempt to identify the language spoken and show them the public notice for language services. Obtain the LEP person's name and contact information in the event the language service contractor is not immediately available.

Telephone Contact

An Over-the-Phone Interpreting (OPI) Line is set up for the Call Center Staff to be able to handle all calls received at the VDOT's toll free line and need language assistance. Similarly, District Civil Rights Managers have access to the OPI Line to handle phone calls at the District Level. Due to telephone calls being a time sensitive issue and the risk of losing a caller going through too many transfers, VDOT staff can also contact Central Office Civil Rights Division and a Civil Rights staff person will contact the language service contractor. The contractor will identify the

language need of the LEP person and transfer the person to the correct interpreter.

Written Documents

Contact the District Civil Rights Manager, the Title VI Designee or the Title VI Specialist for translations (written documents). Electronic capability will result in the efficient return of translated documents. The division or district can scan the document and email it to their District Civil Rights Manager, their Title VI Designee or the Title VI Specialist. If scanning capability is not available and the original document was not received electronically, inter-office mail may be used to send the document. The document will be forwarded to the contractor and sent back within the time frame stipulated in the Language Services contract.

B. Guidelines for responding to individual requests from LEP persons:

- All requests will be logged into a database whether the language spoken can be determined or not.
- All requests will be considered and a quote will be obtained in order to make the determination to proceed by management in the district or division

4. District Offices

- a. All Language Assistance Services will be available to VDOT staff in district offices and residencies.
- b. The Civil Rights Managers may evaluate language resources available in their service area including community colleges, state and private universities, and community-based organizations. Civil Rights Managers may, with the approval of the Civil Rights Division Administrator, enter into agreements for the provision of such services with community resources if the contracted provider is not available to facilitate the services.
- c. Districts with a lower need for language services may coordinate with other districts that maintain a larger resource pool to utilize their language resource services to any extent practicable.
- d. Civil Rights Managers and the Title VI Specialist will communicate to staff that the use of a family member or friend may only take place after informing an LEP person of his/her right to free interpreter services and will only be used as a last result because family members may not have the subject knowledge necessary to communicate the information accurately and in the best manner possible.

5. Central Office

- a. The Title VI Specialist with the assistance of Title VI Designees will institute an LEP protocol appropriate to Central Office.
- b. Central office protocol will be designed using the agency resources described in section 2 of these guidelines.

6. Other Covered Entities:

Contractors, sub-contractors, Metropolitan Planning Organizations (MPOs), Planning District Commissions (PDCs) and other entities that receive funds from VDOT for federal projects are covered under Title VI and Executive Order 13166. Sub-recipients are responsible for securing services and monitoring access for limited English proficiency.

7. Agency Documents

- a. The Title VI Specialist, District Civil Rights Managers, Designees and management will, on a continuing basis, identify vital documents that are routinely provided to stakeholders that will be translated into languages other than English. The translation of vital documents into languages other than English is particularly important where a significant number or percentage of the customers served and/or eligible to be served have limited English proficiency. Whether or not a document is vital depends on how significant the impact on the health, safety, legal rights, or livelihood of an LEP person may be. Written documents include electronic documents and web-sites. Vital documents may include materials such as:
 - Emergency transportation information;
 - Notices of public hearings and proposed transportation plans;
 - Community education materials;
 - Notices notifying LEP persons of language assistance at no cost to the LEP person;
 - Written tests in a classroom;
 - Markings, signs and packaging for hazardous materials and substances;
 - Signs in waiting rooms, reception areas, and other initial points of entry;
 - Instructions on how to participate in a recipient's program.
- b. The Title VI Specialist will coordinate with the Language Service Provider (LSP) to have identified documents translated accordingly.

8. Complaints

- a. Any LEP individual has a right to file a complaint against the agency where he or she believes that the agency did not provide necessary LEP services as appropriate. These complaints include those available under Title VI of the Civil Rights Act of 1964.
- b. All complaints, alleging a violation under Title VI of the Civil Rights Act of 1964 will be referred to VDOT's Title VI Coordinator, the District Civil Rights Managers or the Title VI Specialist.
- c. The Title VI Coordinator, the District Civil Rights Managers or the Title VI Specialist will take appropriate steps to resolve all complaints in accordance with the agency's discrimination complaint procedures.
- d. The Title VI Specialist will maintain a database tracking requests for language services, all complaints and their resolution. The database will include the following items:
 - 1. Source of complaint
 - 2. LEP request including relevant contact information
 - 3. Nature of complaint request
 - 4. Date complaint/request received
 - 5. Date complaint/request resolved
 - 6. Manner of resolution
 - 7. Comments
- e. Fact-finding procedures will follow the investigation protocol in the Title VI Implementation Plan.
- f. Mediation and hearings: Interpreters will be made available to hearing participants upon request or where CRD staff identifies a need for an interpreter.

9. Questions and Answers

Q. Who is a Limited English Proficient (LEP) individual?

A. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled to language assistance with respect to a particular type or service, benefit, or encounter.

Q. Does a recipient have to provide translation services in every language?

A. No. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. What is “reasonable” is based on the four factor analysis. Recipient research of demographics and available resources may determine that language services are provided to the largest number of LEP persons served or encountered by a program or service.

Q. Will providing language services increase the risk of litigation and liability for recipients as a result of LEP Guidance?

A. No. *Alexander v. Sandoval* holds principally that there is no private right of action to enforce Title VI disparate regulations. The LEP Guidelines are based on Title VI and DOT’s Title VI regulations at 49 CFR part 21 and does not provide any private right of action beyond that which exists in those laws. Thus LEP Guidance does not increase the risk of recipient’s legal liability to private plaintiffs. DOT does not dismiss the fact that although there is no legal grounds this does not prevent persons from initiating legal actions.

Q. What is a “safe harbor?”

A “safe harbor means that if a recipient provides written translations under certain circumstances, such action will be considered strong evidence of compliance with the recipient’s WRITTEN translation obligations under Title VI. The following actions will be considered strong evidence of compliance with the recipient’s written translation obligations: (a) the DOT recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served; (b) if there are fewer than 40 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Q. Does the Executive Order apply to federally conducted activities overseas or to foreign recipients of federal financial assistance?

A. No. The Department of Justice (DOJ) has determined that Executive Order (EO) 13166 applies only within the United States and its territories and does not apply extraterritorially.

However, agencies that conduct activities overseas must still submit a plan for making their domestic activities accessible to people who are limited English proficient. That plan will indicate that the agency conducts federal activities abroad, but that DOJ has determined that the EO does not apply to those activities.

Similarly, agencies that provide federal financial assistance abroad and domestically must still create guidance for their domestic recipients, and may include a statement

in the guidance indicating that the guidance does not apply extraterritorially.

- Q. What are recipients of federal funds and federal agencies required to do to meet LEP requirements?
- A. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:
1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
 2. the frequency with which LEP individuals come in contact with the program;
 3. the nature and importance of the program, activity, or service provided by the program to people's lives; and
 4. the resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits.

VDOT's LEP Guidelines – Appendix A
Executive Order 13166

FEDERAL REGISTER

Vol. 65, No. 159

Presidential Documents

PRESIDENT OF THE UNITED STATES

Executive Order 13166 of August 11, 2000

Title 3 -

The President

Improving Access to Services for Persons with Limited English Proficiency

Part IV

65 FR 50121

DATE: Wednesday, August 16, 2000

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To view a specific page, transmit p* and the page number, e.g. p*1

[*50121]

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients

of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, [*50122] each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and

does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

S WILLIAM J. CLINTON

THE WHITE HOUSE,

August 11, 2000.

[FR Doc. 00-20938 Filed 8-15-00; 8:45 am]

Billing code 3195-01-P

VDOT's LEP Guidelines -- Appendix B
U.S. DOT LEP Guidance

FR-DOC-0523972

DEPARTMENT OF TRANSPORTATION LEP GUIDANCE

[Federal Register: December 14, 2005 (Volume 70, Number 239)]
[Notices]
[Page 74087-74100]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr14de05-122]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-2001-8696]

Policy Guidance Concerning Recipients' Responsibilities to
Limited English Proficient (LEP) Persons

AGENCY: Office of the Secretary (OST), U.S. Department of
Transportation (DOT).

ACTION: Notice of guidance with request for comments.

SUMMARY: The United States Department of Transportation (DOT) is publishing guidance concerning services and policies by recipients of Federal financial assistance from the Department of Transportation related to persons with limited English proficiency. The guidance is based on the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, as it affects limited English proficient persons.

DATES: This guidance is effective immediately. Comments must be received on or before January 13, 2006. Late-filed comments will be considered to the extent practicable. DOT will review all comments and will determine what modifications to the guidance, if any, are necessary. This guidance supplants existing guidance on the same subject originally published at 66 FR 6733 (January 22, 2001).

ADDRESSES: You may submit comments, identified by the docket number [OST-2001-8696], by any of the following methods:

Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: (202) 493-2251.

Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

Hand Delivery: To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: You must include the agency name and docket number [OST-2001-8696] or the Regulatory Identification Number (RIN) for this notice at the beginning of your comment. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Docket: You may view the public docket through the Internet at <http://dms.dot.gov> or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Joseph Austin, Chief, External Policy and Program Development Division, Departmental Office of Civil Rights, Telephone: (202) 366-5992, TTY: (202) 366-9696, E-mail: joseph.austin@dot.gov; or Bonnie Angermann, Attorney-Advisor, Office of General Law, Office of the General Counsel, Telephone: (202) 366-9166, E-mail: bonnie.angermann@dot.gov. Arrangements to receive the policy guidance in an alternative format may be made by contacting the named individuals.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance. The purpose of this limited English proficiency policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Transportation (DOT) ('`recipients''), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations.

Executive Order 13166, ``Improving Access to Services for Persons With Limited English Proficiency,' ' reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that is subject to the requirements of Title VI to publish guidance for its respective recipients clarifying that obligation.

Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in the Department of Justice's (DOJ's) Policy Guidance entitled ``Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency.'' See 65 FR 50123 (August 16, 2000) (DOJ's General LEP Guidance).

DOT published its initial guidance regarding its recipients' obligations to take reasonable steps to ensure access by LEP persons on January 22, 2001, and requested public comment on the guidance. See 66 FR 6733. DOT received 21 comments in response to its January 22, 2001, policy guidance. The comments reflected the views of individuals, organizations serving LEP populations, organizations favoring the use of the English language, and recipient agencies. While many comments identified areas for improvement and/or revision, the majority of the comments on the DOT LEP Guidance expressed agreement with its overall goal of ensuring access of LEP individuals to recipients' services. DOT worked closely with DOJ to ensure that recipients' comments were addressed in a consistent fashion.

In the order most often raised, the common areas of comment regarded: cost considerations, especially for smaller recipients serving few LEP persons; increased litigation risk and liability for recipients as a result of the guidance; and use of interpreters and the definition of ``qualified interpreter.''

A large number of comments focused on cost considerations and suggested that the Department address them as part of its evaluation of the language assistance needs of LEP persons. Particularly, this concern was expressed by state agencies that at the time received Coast Guard grants to administer safe boating courses.\1\ But this policy guidance does not require DOT recipients to translate all courses or materials in every circumstance or to take unreasonable or burdensome steps in providing LEP persons access. We have clarified the guidance to better convey its flexibility, based on the four-factor analysis set forth in DOJ's General LEP Guidance.

\1\ This guidance does not address the extent to which Executive Order 13166 requires language access services in the provision of boating safety courses funded by the Coast Guard, because that agency is no longer a component of the Department of Transportation.

Several recipients commented that they serve few if any LEP persons and that the cost of interpreting all of their courses and materials would be excessive and unnecessary. While none urged that costs be excluded from consideration altogether, at least one comment expressed concern that a recipient could use cost as a basis for avoiding otherwise reasonable and necessary language assistance to LEP persons. In contrast, a few comments suggested that the flexible fact-dependent compliance standard set forth in the guidance, when combined with the desire of most recipients to avoid the risk of noncompliance, could lead some large recipients to incur unnecessary or inappropriate fiscal burdens in the face of already strained program budgets. The Department is mindful that cost considerations could be inappropriately used to avoid providing otherwise reasonable and necessary language assistance.

Similarly, cost considerations could be ignored or minimized to justify the provision of a particular level or type of language service even though effective alternatives exist at a minimal cost. The Department also is aware of the possibility that satisfying the need for language services might be quite costly for certain types of recipients, particularly if they have not updated their programs and activities to the changing needs of the populations they serve.

The potential for some recipients to assert adverse cost impacts in order to avoid Title VI obligations does not, in the Department's view, justify eliminating cost as a factor in all cases when determining the necessary scope of reasonable language assistance services under DOT's guidance. The Department continues to believe that costs are a legitimate consideration in identifying the reasonableness of particular language assistance measures, and the DOJ Recipient LEP Guidance identifies the appropriate framework through which costs are to be considered. See Department of Justice Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41455 (June 18, 2002).

The second most common category of comments DOT received expressed concern over increased litigation risk and liability for recipients as a result of the LEP Guidance. As is addressed below in the Introduction, *Alexander v. Sandoval*, 532 U.S. 275 (2001), holds principally that there is no private right of action to enforce Title VI disparate impact regulations. The LEP Guidance is based on Title VI and DOT's Title VI regulations at 49 CFR part 21 and does not provide any private right of action beyond that which exists in those laws. Thus, the LEP Guidance does not increase the risk of recipients' legal liability to private plaintiffs. However, the Department does not dismiss the possibility that individuals may continue to initiate such legal actions.

The third most numerous category of comments DOT received regarded the definition of "qualified interpreter" and expressed commentators' concern with recipients' responsibility to make interpreters available, especially for recipients who serve populations with extremely diverse language needs. Set forth below in section VI are practices to help recipients ascertain that their interpreters are both competent and effective. This section should enable recipients to assess the qualifications of the interpreters they use and identify any improvements that need to be addressed.

Three of the comments urged withdrawal of the guidance, arguing it is unsupported by law. In response, the Department notes that its commitment to implementing Title VI and its regulations to address language barriers is longstanding and is unaffected by recent judicial action precluding individuals from successfully maintaining suits to enforce agencies' Title VI disparate impact regulations. This guidance clarifies existing statutory and regulatory provisions by describing the factors recipients should consider in fulfilling their responsibilities to LEP persons.

The remaining 18 comments were generally supportive of the guidance and DOT's leadership in this area. One recipient commented that constraining LEP persons' access to services may actually hinder their ability to become more proficient in the English language, therefore justifying increased programs for LEP persons. Several comments received addressed areas unique to the provision of transportation

services to LEP persons. One recipient discussed the inconsistency between the Federal Motor Carrier Safety Administration's (FMCSA's) regulations requiring all drivers to speak and understand a certain amount of English, and the guidance's requirement that the FMCSA division offices provide information and services in other languages to accommodate LEP persons. Pursuant to 49 CFR 391.11(b)(2), a person is qualified to drive a motor vehicle if he or she "[c]an read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.'" In 1997, following an

[[Page 74089]]

American Civil Liberties Union (ACLU) legal challenge to this requirement, DOT issued an advance notice of proposed rulemaking (ANPRM) to address this issue. On July 24, 2003, FMCSA withdrew this ANPRM, concluding that the information introduced in response to the notice "does not establish that the current regulation requires an unnecessarily high level of English fluency that has resulted in a discriminatory impact or effect based upon national origin, color, or ethnicity.'" FMCSA determined the regulation "as written and properly enforced effectively balances issues of civil rights and highway safety.'" 68 FR 43890.

Another recipient, who works with community-based organizations concerned with transportation practices and policies, suggested mandatory LEP Access Assessments be attached to the standard financial assistance Assurance Forms that recipients must execute, to serve as a basis for disqualifying recipients submitting inaccurate or substantially incomplete assessments from Federal grant funding. While providing LEP persons with meaningful access is the law and should be given high priority, DOT advocates a flexible approach in ensuring such access, as outlined below in section V, in order to suit the varying needs of its recipients, and therefore has not adopted this suggestion. As discussed in section VIII, DOT seeks to promote voluntary compliance to meet Title VI's goal of ensuring that Federal funds are not used in a manner that discriminates on the basis of race, color, or national origin. DOT will work with recipients to meet this goal, and will resort to more intrusive administrative remedies only if voluntary compliance cannot be secured and stronger measures become necessary to ensure LEP persons have meaningful access to services from recipients of DOT financial assistance.

This document has been modified based on careful consideration of public comments received by DOT, and the approach DOJ adopted after analyzing the public comments it received following its initial guidance published at 66 FR 3834 (January 16, 2001). This guidance is consistent with: Title VI, implementing regulations, Executive Order 13166, the DOJ General LEP Guidance, and the model DOJ Recipient Guidance issued on June 18, 2002.

With particular emphasis on the concerns mentioned above, the Department proposes this "Limited English Proficiency Guidance for Department of Transportation Recipients.'" The text of this guidance document appears below.

Because this guidance must adhere to the Federal-wide compliance standards and framework detailed in the model DOJ Recipient Guidance

issued on June 18, 2002, DOT specifically solicits comments on the nature, scope, and appropriateness of the DOT-specific examples set out in this guidance explaining and/or highlighting how those consistent Federal-wide compliance standards are applicable to recipients of Federal financial assistance from DOT. This guidance supplants the existing guidance on the same subject published at 66 FR 6733 (January 22, 2001). This guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

Dated: December 7, 2005.
J. Michael Trujillo,
Director, Departmental Office of Civil Rights.

Guidance to Federal Financial Assistance Recipients Regarding Title VI
Prohibition Against National Origin Discrimination Affecting Limited
English Proficient Persons

I. Introduction

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, regarding individuals older than age 5, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP."

In a 2001 Supplementary Survey by the U.S. Census Bureau, 33% of Spanish speakers and 22.4% of all Asian and Pacific Island language speakers aged 18-64 reported that they spoke English either "not well" or "not at all."

\\2\ P035. Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over. Cens. Summ. File 3, 2001 Supp. Survey Summ. Tables (SF 3) (based on 12 monthly samples during 2001) Washington: U.S. Dep't of Comm., Bur. of the Census. Viewed 14 September 2004, available at:
http://factfinder.census.gov/servlet/DTTable?_bm=y&-geo_id=D&-ds_name=D&-lang=en&-redoLog=false&-mt_name=DSS 2001 EST G2000 P035

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. The Federal Government funds an array of services that can be made meaningfully accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.\3\

\3\ DOT recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its programs and activities, the current needs of the LEP populations it encounters, and its prior experience in providing language services in the community it serves.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and Title VI regulations against national origin discrimination. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This guidance clarifies existing legal requirements for LEP persons by describing the factors recipients should consider in fulfilling their responsibilities to LEP persons.\4\ These are the same criteria DOT will use in evaluating whether recipients are complying with Title VI and Title VI regulations.

\4\ This policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons. Recipients should use the guidance to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP.

Executive Order 13166 charges DOJ with the responsibility for providing LEP Guidance to other Federal agencies, such as DOT, and for ensuring consistency among each agency-specific guidance. Consistency among Federal Government agencies is particularly important. Inconsistent or contradictory guidance could confuse recipients of Federal funds and needlessly increase costs without facilitating the meaningful access for LEP persons that this policy guidance is designed to address. As with most government initiatives, this requires balancing several principles.

[[Page 74090]]

While this guidance discusses that balance in some detail, it is important to note the basic principles behind that balance. First, we must ensure that federally assisted programs and activities aimed at the American public do not leave individuals behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those who particularly benefit from federally assisted

programs and activities. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small nonprofit organizations that receive Federal financial assistance. There are many productive steps that the Federal Government, either collectively or as individual agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller recipients may choose not to participate in federally assisted programs or activities, threatening the critical functions that the programs or activities strive to assist. To that end, DOT plans to continue to work with DOJ and other Federal agencies to provide ongoing assistance and guidance in this important area. In addition, DOT plans to work with recipients of Federal financial assistance--for example, with motor vehicle departments, transit authorities, state departments of transportation, and other transportation service providers--and LEP persons, to identify and share model plans, examples of best practices, and cost-saving approaches. Moreover, DOT intends to explore how language assistance measures and cost-containment approaches developed with respect to its own federally conducted programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, small local governments, and small nonprofit organizations. An interagency working group on LEP has developed a Web site, <http://www.lep.gov>, to assist in disseminating this information to recipients, Federal agencies, and the communities being served.

Many commentators have noted that some have interpreted the case of *Alexander v. Sandoval*, 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. We have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

II. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall ``on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'" Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity ``to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.'" 42 U.S.C. 2000d-1.

Department of Justice regulations promulgated pursuant to section 602 forbid recipients from ``utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.'" 28 CFR 42.104(b)(2). DOT's Title VI regulations include almost identical language in this

regard. See 49 CFR 21.5(b)(vii)(2) (portions of these regulations are provided in Appendix A).

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In *Lau*, a San Francisco school district that had a significant number of non-English-speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. ``Improving Access to Services for Persons With Limited English Proficiency,' ' 65 FR 50121 (August 16, 2000). Under that order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how its recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding recipients from ``restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' or from ``utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

On that same day, DOJ issued a general guidance document addressed to ``Executive Agency Civil Rights Officers'' setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. ``Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency,' ' 65 FR 50123 (August 16, 2000) (DOJ's General LEP Guidance).

Subsequently, Federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court's decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001). On October 26, 2001, the Assistant Attorney General for Civil Rights issued a memorandum for ``Heads of Departments and Agencies, General Counsels and Civil Rights Directors.' ' This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of *Sandoval*. The Assistant Attorney General stated that because *Sandoval* did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on covered groups--the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to federally assisted programs and activities--the Executive Order remains in force.\5\

\\5\ The memorandum noted that some commentators have interpreted *Sandoval* as impliedly striking down the disparate impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. See, e.g., *Sandoval*, 532 U.S. at 286, 286 n.6 (``[W]e assume for purposes of this decision that section 602

confers the authority to promulgate disparate-impact regulations; *
* * We cannot help observing, however, how strange it is to say that
disparate-impact regulations are 'inspired by, at the service of,
and inseparably intertwined with' Sec. 601 * * * when Sec. 601
permits the very behavior that the regulations forbid'). The
memorandum, however, made clear that DOJ disagreed with the
commentators' interpretation. Sandoval holds principally that there
is no private right of action to enforce Title VI disparate impact
regulations. It did not address the validity of those regulations or
Executive Order 13166 or otherwise limit the authority and
responsibility of Federal agencies to enforce their own Title VI
regulations.

[[Page 74091]]

Pursuant to Executive Order 13166, DOT developed its own guidance
document for recipients and initially issued it on January 22, 2001.
``DOT Guidance to Recipients on Special Language Services to Limited
English Proficient (LEP) Beneficiaries.' ' However, in light of the
public comments received and the Assistant Attorney General's October
26, 2001, clarifying memorandum, DOT has revised its LEP guidance to
ensure greater consistency with DOJ's revised LEP guidance, published
June 18, 2002, and other agencies' revised LEP guidance. 67 FR 117
(June 18, 2002).

III. Who Is Covered?

Pursuant to Executive Order 13166, the meaningful access
requirement of Title VI, the Title VI regulations, and the four-factor
analysis set forth in the DOJ's revised LEP Guidance, 67 FR 117 (June
18, 2002), apply to the programs and activities of Federal agencies,
including DOT. Federal financial assistance includes grants,
cooperative agreements, training, use of equipment, donations of
surplus property, and other assistance. Recipients of DOT assistance
include, for example:

- State departments of transportation.
- State motor vehicle administrations.
- Airport operators.
- State highway safety programs.
- Metropolitan planning organizations.
- Regional transportation agencies.
- Regional, state, and local transit operators.
- Public safety agencies.\6\

\6\ Recipients should review DOJ's LEP Guidance for specific
examples of how the four-factor analysis applies to interactions
between funded law enforcement authorities and first responders.

Hazardous materials transporters and other first
responders.

State and local agencies with emergency transportation

responsibilities, for example, the transportation of supplies for natural disasters, planning for evacuations, quarantines, and other similar action.

Sub-recipients likewise are covered when Federal funds are passed through from one recipient to a sub-recipients.

Coverage extends to a recipient's entire program or activity, i.e., to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance.

Example: DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System. All of the operations of the entire state department of transportation--not just the particular highway program--are covered by the DOT guidance.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to Federal nondiscrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.

IV. Who Is a Limited English Proficient Individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or "LEP," and, therefore, are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. However, if a Federal agency were to decide to terminate Federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d-1.

Examples of populations likely to include LEP persons who are served or encountered by DOT recipients and should be considered when planning language services include, but are not limited to:

- Public transportation passengers.

- Persons who apply for a driver's license at a state department of motor vehicles.

- Persons subject to the control of state or local transportation enforcement authorities, including, for example, commercial motor vehicle drivers.

- Persons served by emergency transportation response programs.

- Persons living in areas affected or potentially affected by transportation projects.

- Business owners who apply to participate in DOT's Disadvantaged Business Enterprise program.

V. How Does a Recipient Determine the Extent of Its Obligation to Provide LEP Services?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program,

activity, or service of the recipient or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the recipient to people's lives; and (4) the resources available to the recipient and costs. As indicated above, the intent of this policy guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small businesses, small local governments, or small nonprofit organizations.

After applying the above four-factor analysis to the various kinds of contacts a recipient has with the public, the recipient may conclude that different language assistance measures are sufficient to ensure meaningful access to the different types of programs or activities in which it engages. For instance, some of a recipient's activities will have a greater impact on or contact with LEP persons than others, and thus may require more in the way of language assistance. The flexibility that recipients have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed. DOT recipients should apply the following four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

(1) The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population

The greater the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population, the more likely language services are needed. Ordinarily, persons ``eligible to be served, or likely to be directly affected, by'' a recipient's programs or activities are those who are in fact, served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that is part of the recipient's service area. However, where, for instance, a motor vehicle office serves a large LEP population, the appropriate service area is that served by the office, and not the entire population served by the department. Where no service area has previously been approved, the relevant service area may be that which is approved by state or local authorities or designated by the recipient itself,

[[Page 74092]]

provided that these designations do not themselves discriminatorily exclude certain populations. When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parent(s) whose English proficient or LEP minor children and dependents encounter the services of DOT recipients.

Recipients should first examine their prior experiences with LEP individuals and determine the breadth and scope of language services that are needed. In conducting this analysis, it is important to: Include language minority populations that are eligible beneficiaries of recipients' programs, activities, or services but may be underserved because of existing language barriers; and consult additional data, for example, from the census, school systems and community organizations,

and data from state and local governments, community agencies, school systems, religious organizations, and legal aid entities.\7\

\7\ The focus of the analysis is on lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language but speak or understand English less than well. People who are also proficient in English may speak some of the most commonly spoken languages other than English.

(2) The Frequency with Which LEP Individuals Come in Contact With the Program, Activity, or Service

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance, as the more frequent the contact, the more likely enhanced language services will be needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. Recipients should also consider the frequency of different types of language contacts, as frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish, while less frequent contact with different language groups may suggest a different and/or less intensified solution. If an LEP individual accesses a program or service on a daily basis, a recipient has greater duties than if the same individual's program or activity contact is unpredictable or infrequent. However, even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP individual seeks services under the program in question. This plan need not be intricate. It may be as simple as being prepared to use a commercial telephonic interpretation service to obtain immediate interpreter services. Additionally, in applying this standard, recipients should consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The obligations to communicate rights to an LEP person who needs public transportation differ, for example, from those to provide recreational programming. A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, state, or local entity to make an activity compulsory, such as requiring a driver to have a license, can serve as strong evidence of the importance of the program or activity.

(4) The Resources Available to the Recipient and Costs

A recipient's level of resources and the costs imposed may have an impact on the nature of the steps it should take in providing meaningful access for LEP persons. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, ``reasonable steps'' may cease to be reasonable where the costs imposed substantially exceed the benefits. Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

Resource and cost issues, however, can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between recipients, advocacy groups, affected populations, and Federal agencies. For example, the following practices may reduce resource and cost issues where appropriate:

- Training bilingual staff to act as interpreters and translators.

- Information sharing through industry groups.

- Telephonic and video conferencing interpretation services.

- Translating vital documents posted on Web sites.

- Pooling resources and standardizing documents to reduce translation needs.

- Using qualified translators and interpreters to ensure that documents need not be ``fixed'' later and that inaccurate interpretations do not cause delay or other costs.

- Centralizing interpreter and translator services to achieve economies of scale.\8\

\8\ Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

- Formalized use of qualified community volunteers.

Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs.

This four-factor analysis necessarily implicates the ``mix'' of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter ``interpretation'') and written translation (hereinafter ``translation''). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP individual

may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a motor vehicle department or an emergency hazardous material clean-up team in a largely Hispanic neighborhood may need immediate oral interpreters available and should give serious consideration to hiring bilingual staff (of course, many such departments have already made these arrangements). Additionally, providing public

[[Page 74093]]

transportation access to LEP persons is crucial. An LEP person's inability to utilize effectively public transportation may adversely affect his or her ability to obtain health care, or education, or access to employment. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high--such as in the case of a voluntary general public tour of an airport or train station--in which pre-arranged language services for the particular service may not be necessary. Regardless of the type of language services provided, quality and accuracy of those services can be critical. Recipients have substantial flexibility in determining the appropriate mix.

VI. Selecting Language Assistance Services

Recipients may provide language services in either oral or written form. Quality and accuracy of the language service is critical in order to avoid potential serious consequences to the LEP person and to the recipient.

A. Oral Language Services (Interpretation)

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider some or all of the options below for providing competent interpreters in a timely manner.

Competence of Interpreters. When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret into and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (e.g.,

consecutive, simultaneous, summarization, or sight translation).

Have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary and phraseology used by the LEP person;\9\ and understand and follow confidentiality and impartiality rules to the same extent as the recipient employee for whom they are interpreting and/or to the extent their position requires.

\9\ Many languages have ``regionalisms,'' or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages that do not have an appropriate direct interpretation of certain legal terms, the interpreter should be able to provide the most appropriate interpretation. The interpreter should make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

Understand and adhere to their role as interpreters without deviating into a role as counselor, legal advisor, or other roles.

Additionally, some recipients may have their own requirements for interpreters, as individual rights may depend on precise, complete, and accurate interpretations or translations. In some cases, interpreters may be required to demonstrate that their involvement in a matter would not create a conflict of interest.

While quality and accuracy of language services are critical, they are nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services as part of disaster relief programs, or in the provision of emergency supplies and services, for example, must be extraordinarily high, while the quality and accuracy of language services in a bicycle safety course need not meet the same exacting standards.

Finally, when interpretation is needed and is reasonable, it should be provided in a timely manner in order to be effective. Generally, to be ``timely,'' the recipient should provide language assistance at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person. For example, when the timeliness of services is important, such as when an LEP person needs access to public transportation, a DOT recipient does not provide meaningful LEP access when it has only one bilingual staff member available one day a week to provide the service.

Hiring Bilingual Staff. When particular languages are encountered often, hiring bilingual staff offers one of the best, and often most economical, options. Recipients can, for example, fill public contact positions, such as transit station managers, department of motor vehicle service representatives, security guards, or program directors, with staff that are bilingual and competent to communicate directly with LEP persons in their language. If bilingual staff members are also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language,

they should be competent in the skill of interpreting, as discussed above. Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff members are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.

Hiring Staff Interpreters. Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages. Depending on the facts, sometimes it may be necessary and reasonable to provide on-site interpreters to facilitate accurate and meaningful communication with an LEP person.

Contracting for Interpreters. Contract interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition to commercial and other private providers, many community-based organizations and mutual assistance associations provide interpretation services for particular languages. Contracting with interpreters and providing training regarding the recipient's programs and processes to these organizations can be a cost-effective option for providing language services to LEP persons from those language groups.

Using Telephone Interpreter Lines. Telephone interpreter service lines often offer prompt interpreting assistance in many different languages. They may be particularly appropriate where the mode of communicating with an English proficient person would also be over the phone. Although telephonic interpretation services are useful in many situations, it is important to ensure that, when using such services, the interpreters are competent to interpret any technical or legal terms specific to a particular program that may be important parts of the conversation. Nuances in language and non-verbal communication can often assist an

[[Page 74094]]

interpreter and cannot be recognized over the phone. The issues discussed above regarding interpreter competency are also relevant to telephonic interpreters. Video teleconferencing and allowing interpreters to review relevant documents in advance may also be helpful.

Using Community Volunteers. In addition to consideration of bilingual staff, staff interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recipient-coordinated community volunteers may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient's less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to use volunteers who are trained in the information or services of the program and can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these

concerns and help ensure that services are available more regularly.

Use of Family Members, Friends, Other Customers/Passengers as Interpreters. Although recipients should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities, where LEP persons so desire, they should be permitted to use an interpreter of their choice at their own expense (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, temporary use of interpreters not provided by the recipient may be necessary. However, with proper planning and implementation, recipients should be able to avoid most such situations.

Recipients, however, should take special care to ensure that family members, legal guardians, caretakers, and other informal interpreters are appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient's own administrative, mission-related, or enforcement interest in accurate interpretation. In many circumstances, family members (especially children) or friends are not competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive or confidential information to a family member, friend, or member of the local community. In addition, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to obtain an LEP person's personal identification information, for example, in the case of an LEP person attempting to apply for a driver's license. Thus, DOT recipients should generally offer free interpreter services to the LEP person. This is particularly true in situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.

An example of such a case is when no interpreters, or bilingual or symbolic signs are available in a state department of motor vehicles. In an effort to apply for a driver's license, vehicle registration, or parking permit, an LEP person may be forced to enlist the help of a stranger for translation. This practice may raise serious issues of competency or confidentiality and may compromise the personal security of the LEP person, as the stranger could have access to the LEP person's personal identification information, such as his or her name, phone number, address, social security number, driver's license number (if different from the social security number), and medical information. However, there are situations where proper application of the four factors would lead to a conclusion that recipient-provided services are not necessary. An example of this is a voluntary educational tour of an airport, or a train or bus station. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or others to interpret may be

appropriate.

If the LEP person voluntarily chooses to provide his or her own interpreter, a recipient should consider whether a record of that choice and of the recipient's offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical, or where the competency of the LEP person's interpreter is not established, a recipient might decide to provide its own, independent interpreter, even if an LEP person wants to use his or her own interpreter as well. Extra caution should be exercised when the LEP person chooses to use a minor as the interpreter. While the LEP person's decision should be respected, there may be additional issues of competency, confidentiality, or conflict of interest when the choice involves using children as interpreters. The recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

B. Written Language Services (Translation)

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).

What Documents Should be Translated? After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently encountered LEP group eligible to be served and/or likely to be affected by the recipient's program. Such written materials could include, for example:

- Driver's license, automobile registration, and parking permit forms.

- Parking tickets, citation forms, and violation or deficiency notices, or pertinent portions thereof.

- Emergency transportation information.

- Markings, signs, and packaging for hazardous materials and substances.

- Signs in bus and train stations, and in airports.

- Notices of public hearings regarding recipients' proposed transportation plans, projects, or changes, and reduction, denial, or termination of services or benefits.

- Signs in waiting rooms, reception areas, and other initial points of entry.

- Notices advising LEP persons of free language assistance and language identification cards for staff (i.e., ``I speak'' cards).

[[Page 74095]]

Statements about the services available and the right to free language assistance services in appropriate non-English languages, in brochures, booklets, outreach and recruitment information, and other materials routinely disseminated to the public.

Written tests that do not assess English-language competency, but test competency for a particular license, job, or skill for which knowing English is not required.

Applications, or instructions on how to participate in a recipient's program or activity or to receive recipient benefits or services.

Consent forms.

Whether or not a document (or the information it solicits) is ``vital'' may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not accurate or timely. For instance, applications for bicycle safety courses should not generally be considered vital, whereas access to safe driving handbooks could be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across their various activities, what documents are ``vital'' to the meaningful access of the LEP populations they serve.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of ``meaningful access,''' as lack of awareness may effectively deny LEP individuals meaningful access. Thus, where a recipient is engaged in community outreach efforts in furtherance of its programs and activities, it should regularly assess the needs of the populations frequently encountered or affected by the program or activity to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate, and some such translations may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, and religious and community organizations to spread a message.

Sometimes a very large document may include both vital and non-vital information. This may also be the case when the title and a phone number for obtaining more information on the contents of the document in frequently encountered languages other than English is critical, but the document is sent out to the general public and cannot reasonably be translated into many languages. Thus, vital information may include, for instance, providing information in appropriate languages regarding where an LEP person might obtain an interpretation or translation of the document.

Into What Languages Should Documents be Translated? The extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the upfront cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis.

The languages spoken by the LEP individuals with whom the recipient has frequent contact determine the languages into which vital documents should be translated. However, because many DOT recipients serve communities in large cities or across an entire state and regularly serve areas with LEP populations that speak dozens and sometimes more than 100 languages, it would be unrealistic to translate all written materials into each language. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and

require substantial resources. However, well-substantiated claims of lack of resources to translate all such documents into dozens or more than 100 languages do not necessarily relieve the recipient of the obligation to translate vital documents into at least several of the more frequently encountered languages. The recipient should then set benchmarks for continued translations into the remaining languages over time.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a ``safe harbor'' for recipients regarding the requirements for translation of written materials. A ``safe harbor'' means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations under Title VI.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is noncompliance. Rather these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Safe Harbor. The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

(a) The DOT recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate, and vice versa.

Particularly where vital documents are being translated, competence can often be achieved by use of certified translators. Certification or accreditation may not always be possible or necessary. Competence can often be ensured by having a second, independent translator check the work of the primary translator. Alternatively, one translator can

translate the document, and a second, independent

[[Page 74096]]

translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called ``back translation.''

\10\ For those languages in which no formal accreditation exists, a particular level of membership in a professional translation association can provide some indicator of professional competence.

Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English-language version or has no relevant equivalent meaning.\11\ Community organizations may be able to help consider whether a document is written at an appropriate level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, legal, or other technical or programmatic terms helps avoid confusion by LEP individuals and may reduce costs. Creating or using already created glossaries of commonly used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous accurate translations of similar material by other recipients or Federal agencies may also be helpful.

\11\ For instance, although there may be languages that do not have a direct translation of some legal, technical, or program-related terms, the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of those terms in that language that can be used again, when appropriate.

While quality and accuracy of translation services are critical, they are nonetheless part of the appropriate mix of LEP services required. For instance, documents that are simple and have no important consequences for LEP persons who rely on them may be translated by translators who are less skilled than important documents with legal or other information upon which reliance has important consequences (including, e.g., driver's license written exams and documents regarding important benefits or services, or health, safety, or legal information). The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

VII. Elements of an Effective Implementation Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations it serves. Although recipients have considerable flexibility in developing such a plan, maintaining a periodically updated written plan on language assistance for LEP persons ('`LEP plan'') for use by recipient employees serving the public would be an appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Such written plans may also provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. Thus, recipients may choose to document the language assistance services in their plan, and how staff and LEP persons can access those services. Certain DOT recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. In that event, a recipient should consider alternative ways to reasonably articulate a plan for providing meaningful access. Early input from entities such as schools, religious organizations, community groups, and groups working with new immigrants can be helpful in forming this planning process. The following five steps may be helpful in designing an LEP plan and are typically part of effective implementation plans.

(1) Identifying LEP Individuals Who Need Language Assistance

There should be an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters pursuant to the first two factors in the four-factor analysis.

One way to determine the language of communication is to use language identification cards (or ``I speak cards''), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say, ``I speak Spanish'' in both Spanish and English, or ``I speak Vietnamese'' in both English and Vietnamese. To reduce costs of compliance, the Federal Government has made a set of these cards available on the Internet. The Census Bureau's ``I speak card'' can be found and downloaded at <http://www.usdoj.gov/crt/cor/13166.htm>.

When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

(2) Language Assistance Measures

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance,

recipients may want to include information on at least the following:

- Types of language services available.
- How recipient staff can obtain those services.
- How to respond to LEP callers.
- How to respond to written communications from LEP persons.
- How to respond to LEP individuals who have in-person

contact with recipient staff.

How to ensure competency of interpreters and translation services.

(3) Training Staff

Staff members should know their obligations to provide meaningful access to information and services for LEP persons, and all employees in public contact positions should be properly trained. An effective LEP plan would likely include training to ensure that:

Staff knows about LEP policies and procedures.

Staff having contact with the public (or those in a recipient's custody) is trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. Recipients have flexibility in deciding the manner in which the training is provided, and the more frequent the contact with LEP persons, the greater the need will be for in-depth training. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

(4) Providing Notice to LEP Persons

Once an agency has decided, based on the four factors that it will provide language services, it is important that the recipient notify LEP persons of services available free of charge. Recipients should provide this notice in languages LEP persons would understand. Examples of notification that recipients should consider include:

[[Page 74097]]

Posting signs in intake areas and other entry points. This is important so that LEP persons can learn how to access those language services at initial points of contact. This is particularly true in areas with high volumes of LEP persons seeking access to certain transportation safety information, or other services and activities run by DOT recipients.\12\

\12\ For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the necessary language assistance. The Social Security Administration has made such signs available at <http://www.ssa.gov/multilanguage/langlist1.htm>. DOT recipients could, for example, modify these signs for use in programs, activities, and services.

Stating in outreach documents that language services are available from the agency. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and could be ``tagged'' onto the front of common documents.

Working with community-based organizations and other stakeholders to inform LEP individuals of the recipients' services, including the availability of language assistance services.

Using an automated telephone voice mail attendant or menu system. The system could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.

Including notices in local newspapers in languages other than English.

Providing notices on non-English-language radio and television stations about the available language assistance services and how to get them.

Providing presentations and/or notices at schools and religious organizations.

(5) Monitoring and Updating the LEP Plan

Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees.

In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community.

In their reviews, recipients may want to consider assessing changes in:

Current LEP populations in the service area or population affected or encountered.

Frequency of encounters with LEP language groups.

Nature and importance of activities to LEP persons.

Availability of resources, including technological advances and sources of additional resources, and the costs imposed.

Whether existing assistance is meeting the needs of LEP persons.

Whether staff knows and understands the LEP plan and how to implement it.

Whether identified sources for assistance are still available and viable.

In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.

VIII. Voluntary Compliance Effort

The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. DOT enforces Title VI as it applies to recipients' responsibilities to LEP persons through the procedures provided for in DOT's Title VI regulations (49 CFR part 21, portions of which are provided in Appendix A).

The Title VI regulations provide that DOT will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, DOT will inform the recipient in writing of this determination, including the basis for the determination. DOT uses voluntary mediation to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, DOT must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, DOT must secure compliance through the termination of Federal assistance after the DOT recipient has been given an opportunity for an administrative hearing and/or by referring the matter to DOJ with a recommendation that appropriate proceedings be brought to enforce the laws of the United States. In engaging in voluntary compliance efforts, DOT proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, DOT's primary concern is to ensure that the recipient's policies and procedures provide meaningful access for LEP persons to the recipient's programs, activities, and services.

While all recipients must work toward building systems that will ensure access for LEP individuals, DOT acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally assisted programs and activities for LEP persons, DOT will look favorably on intermediate steps recipients take that are consistent with this guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, DOT recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the health, safety, legal rights, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally assisted programs and activities.

IX. Promising Practices

The following examples are provided as illustrations of the responses of some recipients to the need to provide services to LEP persons, and are meant to be interesting and useful examples of ways in which LEP recipients can provide language services. Recipients are

responsible for ensuring meaningful access to all portions of their program or activity, not just the portions to which DOT assistance is targeted. So long as the language services are accurate, timely, and appropriate in the manner outlined in this guidance, the types of promising practices summarized below can assist recipients in moving toward

[[Page 74098]]

meeting the meaningful access requirements of Title VI and the Title VI regulations. These examples do not, however, constitute an endorsement by DOT, which will evaluate recipients' situations on a case-by-case basis using the factors described elsewhere in this guidance.

Language Banks. In several parts of the country, both urban and rural, community organizations and providers have created language banks that dispatch competent interpreters, at reasonable rates, to participating organizations, reducing the need to have on-staff interpreters for low-demand languages. This approach is particularly appropriate where there is a scarcity of language services or where there is a large variety of language needs but limited demand for any particular language.

Language Support Offices. A state social services agency has established an "Office for Language Interpreter Services and Translation." This office tests and certifies all in-house and contract interpreters, provides agency-wide support for translation of forms, client mailings, publications, and other written materials into non-English languages, and monitors the policies of the agency and its vendors that affect LEP persons.

Some recipients have established working liaisons with local community colleges to educate the LEP community in transportation matters. One city formed a multilingual/multi-agency task force to address language barriers and the concerns of the affected communities. The task force completed a survey of city staff with multilingual skills in order to identify employees willing to serve as interpreters and is preparing lists of community and cultural organizations.

Use of Technology. Some recipients use their Internet and/or intranet capabilities to store translated documents online, which can be retrieved as needed and easily shared with other offices. For example, a multilanguage gateway on a Web page could be developed for LEP persons and the public to access documents translated into other languages.

Telephone Information Lines and Hotlines. Recipients have subscribed to telephone-based interpretation services and established telephone information lines in common languages to instruct callers on how to leave a recorded message that will be answered by someone who speaks the caller's language. For example, a recipient may choose to adopt a program similar to the National Highway Traffic Safety Administration's (NHTSA's) Auto Safety Hotline, which has four representatives who speak Spanish and are available during normal hotline business hours (Mon.-Fri., 8 a.m.-10 p.m. eastern time).\13\

\13\ The evening hours permit people from the West Coast (where a significant number of LEP persons reside) to call after work, providing an option for instructions in Spanish, a separate queue,

and Spanish-speaking operators.

Signage and Other Outreach. Recipients have provided information about services, benefits, eligibility requirements, and the availability of free language assistance, in appropriate languages by (a) posting signs and placards with this information in public places such as grocery stores, bus shelters, and subway stations; (b) putting notices in print media and on radio and television stations that serve LEP groups or broadcasting in languages other than English;\14\ (c) airing videos and public service announcements for non-English-speaking residents; (d) placing flyers and signs in the offices of community-based organizations that serve large populations of LEP persons; (e) distributing information at places of worship, ethnic shopping areas, and other gathering places for LEP groups; (f) using posters with appropriate languages designed to reach potential beneficiaries; and (g) developing pictures, images, figures, or icons that could be understandable alternatives to written words.

\14\ Notifications should be delivered in advance of scheduled meetings or events to allow time for persons to request accommodation and participate.

DOT agencies and recipients have implemented numerous language access services:

DOT's Pipeline and Hazardous Materials Safety Administration (formerly known as the Research and Special Programs Administration), at 49 CFR Sec. Sec. 192.616 and 195.440, requires pipeline officers to establish a program for effective reporting by the public of gas pipeline emergencies to the operator or public officials, also providing that the program must be conducted in English and other common languages.\15\ We recommend that recipients consider the appropriateness of such an approach to meet their individual service provision needs.

\15\ ``Each [pipeline] operator shall establish a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used should be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.'' 49 CFR Sec. 192.616. Section 195.440 of title 49, Code of Federal Regulations, imposes similar requirements in the case of hazardous liquid or carbon dioxide pipeline emergencies.

DOT's National Highway Traffic Safety Administration (NHTSA) has translated the National Standardized Child Passenger Safety

Training Program curriculum into Spanish. The course, designed to help communities work with parents and caregivers on the proper installation of child safety seats, has been pilot tested and is scheduled to be available to the public by early 2006 through many national Latino organizations and State Highway Safety Offices.

DOT's Federal Motor Carrier Safety Administration (FMCSA) division offices in California, Arizona, New Mexico, Texas, and Puerto Rico employ personnel conversant in Spanish to communicate the agency's critical safety regulations.

The Del Rio, Texas, Police Department implemented the El Protector program in Del Rio and developed public service broadcasts in Spanish about traffic safety issues such as loading and unloading school buses, drinking and driving, and pedestrian safety.

Emergency Medical Services (EMS) staff in Los Angeles reported that their system is equipped to receive calls in more than 150 languages, although Spanish is the most frequent language used by 911 callers who do not speak English.

District of Columbia DMV information, forms, and support material are available in German, Spanish, French, Russian, Dutch, and Portuguese and can be downloaded from the division's Web site. The DC DMV also provides a ``City Services Guide'' in Chinese, Korean, Spanish, and Vietnamese. DC's ``Click It or Ticket'' program material and information on child safety seat loaner programs and fitting station locations are available in Spanish.

The New Jersey Department of Motor Vehicles administers driver's license tests in more than 15 languages, including Arabic, French, Greek, Korean, Portuguese, and Turkish.\16\

\16\ DOT recommends that state agencies share such information, to avoid the necessity of each agency performing every translation.

In North Dakota, while the Traffic Safety Office acknowledges a limited minority population requiring assistance with translation, the Driver Licensing Unit offers the option of an oral test in Spanish.

The Iowa Department of Transportation (IDOT) provides a Spanish version of the Commercial

[[Page 74099]]

Driver's License knowledge test using a touch screen computer, and study guides of the Iowa Driver's Manual in Albanian, Bosnian, Russian, Vietnamese, and Korean. IDOT established a liaison with a local community college to provide education for Bosnian refugees concerning the Commercial Motor Vehicle driving course.\17\

\17\ DOT especially recommends the idea of working with local community colleges to educate the LEP community in transportation matters.

The Wisconsin DOT created a 3rd grade level study guide,

the Motorist Study Manual Easy Reader, which was translated by the Janesville Literacy Council into Spanish. Wisconsin DOT also provides the regular 6th grade level version of the Reader in English, Spanish, and Hmong; a Motorcycle Study Manual in English and Spanish; and a CDL (Commercial Driver's License) Study Manual in English and Spanish. In addition, Knowledge and Highway Sign Tests are written in 13 languages other than English, recorded on audiocassette tapes in English and Spanish, or orally interpreted by bilingual staffers obtained from a roster of Wisconsin DOT employees who speak, read, or write foreign languages.

The Idaho Office of Traffic and Highway Safety implemented a Spanish-language safety belt media campaign to educate its Hispanic community on the statewide ``Click It, Don't Risk It!'' program to boost seat belt use. Information appears in *Unido*, Idaho's largest Spanish-language newspaper, and warns all motorists to buckle up or risk receiving a safety belt citation.

The New Mexico State Highway and Transportation Department, with Federal Highway Administration (FHWA) support, provides Spanish-language translations of its Right-of-Way Acquisition and Relocation brochures and also employs bilingual right-of-way agents to discuss project impacts in Spanish.

The State of Oregon developed a report on multilingual services provided by state agencies. State agencies will use the final document to enhance their existing programs, including expanding communication efforts to serve and protect all Oregonians.

The Texas DOT utilizes bilingual employees in its permit office to provide instruction and assistance to LEP Spanish-speaking truck drivers when providing permits to route overweight trucks through Texas. In its ``On the Job Training Supportive Services Program'' Texas DOT has used Spanish-language television to inform people who have difficulty reading English of opportunities in the construction industry.

When the Virginia DOT (VDOT) became aware that several Disadvantaged Business Enterprise (DBE) firms were about to be removed from construction projects in Northern Virginia because they required certified concrete inspectors, and that they could not comply because the concrete inspection test was only offered in English, it used supportive services funding from the Federal Highway Administration to translate the training manual and test material into Spanish. VDOT also provides tutoring for the DBE firms. The Virginia State Police maintains a written list of interpreters available statewide to troopers through the Red Cross Language Bank, as well as universities and local police departments.

The Colorado State Patrol produced safety brochures in Spanish for farmers and ranchers. It has also printed brochures in Spanish pertaining to regulatory requirements for trucking firms.

In preparation of its 20-year planning document, the Transportation Concept Report, the California DOT (Caltrans) held a public meeting titled ``Planning the Future of Highway 1'' in the largely Hispanic city of Guadalupe, through which Highway 1 runs. The meeting was broadcast on the local public access channel since many of the Spanish-speaking residents potentially affected by Highway 1 projects rely on the channel to receive public affairs information. Caltrans provided a Spanish-language interpreter during the meeting and also made its Spanish-speaking public affairs officer available to meet

with participants individually.

During project planning for interstate improvements along Interstate 710 in California, engineers presented ``good'' alternatives to the affected communities; however, the proposed highway expansion would have removed low-income homes in communities that are 98% Spanish speaking. To ensure that their concerns were heard, California identified the affected communities and facilitated the establishment of Community Advisory Committees that held bilingual workshops between engineers and the public.

The Minnesota DOT authored a manual detailing its requirements to provide access to all residents of Minnesota under environmental justice standards, which included ideas such as publishing notices in non-English newspapers, printing notices in appropriate languages, and providing interpreters at public meetings.

In New Mexico, the Zuni Entrepreneurial Enterprises, Inc. (ZEE) Public Transportation Program designed the Zuni JOBLINKS program to develop, implement, and maintain a transportation system to link Native Americans and other traditionally unserved/underserved persons in the service area to needed vocational training and employment opportunities. Outreach for the program included radio announcements and posting of signs in English and Zuni that described ZEE's services and provided ZEE's phone number.

Washington, DC's Metropolitan Area Transit Authority (WMATA) publishes pocket guides regarding its system in French, Spanish, German, and Japanese, and has a multilanguage website link.

In North Dakota, Souris Basin Transportation (SBT) started using visual logos on the sides of the vehicles to help illiterate passengers identify the bus on which they were riding. Although the illiteracy rate has dropped among seniors, SBT kept the logos on its vehicles for use by the growing LEP population and also added volunteers who speak languages other than English (such as Spanish, German, Norwegian, Swedish, and French) available by phone to drivers and staff.

New York City Transit MetroCard vending machines are located in every station and contain software that allows them to be programmed in three languages in addition to English, based upon area demographics. Currently, these machines are capable of providing information in Spanish, French, French Creole, Russian, Chinese, Japanese, Italian, Korean, Greek, and Polish.

The Metropolitan Atlanta Rapid Transit Authority (MARTA) advertises upcoming service and fare changes in Spanish, Korean, Vietnamese, and Chinese language newspapers. MARTA also produces a bilingual (Spanish/English) service modifications booklet.

The Fort-Worth Transportation Authority communicates information about service and fare changes in Spanish and English. It recruits Spanish-speaking customer service representatives and bus operators and has a community outreach liaison who is bilingual. The transit provider also provides a Spanish-language interpreter at all public meetings.

The Salt Lake City International Airport maintains a list of 35 bilingual and multilingual employees who speak one of 19 languages (including three dialects of Chinese) and their contact information. The list is published in the

Airport Information Handbook and provided to all airport employees. The airport also contracts with a telephonic interpretation service to provide on-demand telephone interpretation services to beneficiaries.

The Port of Seattle has 16 ``Pathfinders'' on staff who act as guides and information sources throughout the Seattle Tacoma International Airport. A key selection criterion for Pathfinders is multilingual ability. The Pathfinders collectively speak 15 languages and are often called on to act as interpreters for travelers who do not speak English. Pathfinders greet all international flights and are assigned to do so based on language skills.

Seattle Tacoma International Airport's trains carry announcements in English, Japanese, and Korean. The Port of Seattle contributed \$5,000 to the creation of the City of Tukwila's ``Newcomers Guide,'' which is published in six languages and includes information about the airport and Airport Jobs, a referral service for employment at the airport.

The following is a sample notice that would be useful for recipients to add to the publications or signs for their programs, services, or activities, in order to notify LEP individuals of the availability of materials and services in other languages.

Sample Notice of Availability of Materials and Services

FOR FURTHER INFORMATION CONTACT: For hearing-impaired individuals or non-English-speaking attendees wishing to arrange for a sign language or foreign language interpreter, please call or fax [name] of [organization] at Phone: xxx-yyy-zzzz, TTY: xxx-yyy-zzzz, or Fax: xxx-yyy-zzzz.' ' \18\

\18\ If there is a known and substantial LEP population that may be served by the program discussed in the notice, the notice should be in the appropriate non-English language.

Appendix A to DOT Guidance

DOT's Title VI regulation (49 CFR part 21) states the following, in relevant part:

Sec. 21.5 Discrimination prohibited.

(a) General. No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) Specific discriminatory actions prohibited:

(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.

(i) Deny a person any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any

matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(vi) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

(vii) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of person to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program; may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

* * * * *

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

* * * * *

(7) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin.

[FR Doc. 05-23972 Filed 12-13-05; 8:45 am]

BILLING CODE 4910-62-P

**VDOT's LEP Guidelines -- Appendix C
Complaint of Discrimination Form**



1401 E. Broad Street, Richmond, VA 23219
804.786.2085 Tel
800.508.3737 Toll Free

**Form for Complaints Alleging Violations of
Title VI of the Civil Rights Act of 1964**

Title VI of the 1964 Civil Rights Act requires that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The following information is necessary to assist us in processing your complaint. Should you require any assistance in completing this form, please let us know.

Complete and return this form to the Civil Rights Division: Ms. Sandra D. Norman, Civil Rights Division Administrator, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Section I

I believe that I have been (or someone else has been) discriminated against on the basis of:

- ☐ Race
- ☐ Color
- ☐ National Origin

What date did the alleged discrimination take place?

Section II

First Name: Last Name:

E-mail Address:

Postal Address:

City, State, Zip:

Telephone No.:

Home Cell:

Business:

Section III

Are you filing this complaint on your own behalf?

☐ Yes ☐ No

If not, please supply the name and relationship of the person for whom you are complaining:

Please explain why you have filed for a third party:

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party:

☐ Yes ☐ No

Are you represented by legal counsel for this matter?

☐ Yes ☐ No

If yes, please supply name and contact information:

Have you previously filed a civil rights complaint with FHWA?

☐ Yes ☐ No

Section IV

Names of specific persons, Agency or public entity alleged to have discriminated

Section V

Have you filed this complaint with any of the following agencies?

- ☐ U.S. Department of Justice
☐ U.S. Department of Transportation
☐ Federal Highway Administration (FHWA)
☐ Other:

Have you filed a lawsuit regarding this complaint?

Yes ☐ No ☐

If yes, please provide the case number:

Section VI

Please Include Details of Your Complaint Below. FHWA will contact you to request any additional documentation you may want to submit on behalf of your complaint.

Important: We cannot accept your complaint without a signature, please submit this form with a signature.

Complainant's Signature

Date

VDOT's LEP Guidelines -- Appendix D Language Flashcards

LANGUAGE IDENTIFICATION CARD

I SPEAK ...		VDOT Virginia Department of Transportation	
ARABIC أنا أتحدث اللغة العربية	FRENCH Je parle français	LAOTIAN ຂ້ອຍເປົກພາສາລາວ	SPANISH Yo hablo español
ARMENIAN ես խոսում եմ հայերեն	FRENCH CREOLE (HAITIAN CREOLE) M pale kreyòl ayisyen	LITHUANIAN Aš kalbu lietuviškai	SWAHILI Ninaongea Kiswahili
BENGALI আমি বাংলা কথা বলতে পারি	GERMAN Ich spreche Deutsch	MANDARIN (CHINESE) 我講國語 / 我讲国语 / 普通话	SWEDISH Jag talar svenska
BOSNIAN Ja govorim bosanski	GREEK Μιλώ τα ελληνικά	NORWEGIAN Jeg snakker norsk	TAGALOG Marunong akong mag-Tagalog
BULGARIAN Аз говоря български	GUJARATI મે ગુજરાતી બોલું છું	POLISH Mówię po polsku	THAI พูดภาษาไทย
BURMESE ကျွန်ုပ်တို့/ကျွန်းုပ်တို့ မြန်မာစကား ခြေသေ့။	HEBREW אני מדבר עברית	PORTUGUESE Eu falo português do Brasil (Brasil)	TURKISH Türkçe konuşurum
CAMBODIAN ខ្ញុំនិយាយភាសាខ្មែរ	HINDI मैं हिंदी बोलता हूँ।	Eu falo português de Portugal (Portugal)	UKRAINIAN Я розмовляю українською мовою
CANTONESE (CHINESE) 我講廣東話 / 我讲广东话	HMONG Kuv has lug Moob	PUNJABI ਮੈ ਪੰਜਾਬੀ ਬੋਲਦਾ/ਬੋਲਦੀ ਹਾਂ।	URDU میں اردو بولتا ہوں
CROATIAN Govorim hrvatski	HUNGARIAN Beszélek magyarul	ROMANIAN Vorbesc românește	VIETNAMESE Tôi nói tiếng Việt
CZECH Mluvim česky	ITALIAN Parlo italiano	RUSSIAN Я говорю по-русски	YORUBA Mo nso Yooba
DUTCH Ik spreek het Nederlands	JAPANESE 私は日本語を話す	SERBIAN Ja govorim српски	
FARSI (PERSIAN) من فارسی صحبت می کنم	KOREAN 한국어를 합니다	SLOVAK Hovorim po slovensky	

RECEPTION / FRONT DESK COPY

1- PLEASE USE THIS CARD TO IDENTIFY THE LANGUAGE THAT MAY BE NEEDED

2- CONTACT CIVIL RIGHTS OFFICE TO REQUEST FURTHER ASSISTANCE

VDOT's LEP Guidelines -- Appendix E
FHWA Memorandum Dated April 7, 2006

Memorandum

U.S. Department of Transportation

Federal Highway Administration

Subject: **ACTION:** Implementation of Executive Order 13166 –
Improving Access to Services for People With Limited
English Proficiency

Date: April 7, 2006

From: Frederick D. Isler
Associate Administrator for Civil Rights

Reply to Attn of: HCR-10



To: Division Administrators
Directors of Resource Centers
Directors of Field Services

On August 11, 2000, President Clinton issued Executive Order (EO) 13166 directing Federal agencies to ensure that their program and activities are accessible to persons with Limited English Proficiency (LEP). The EO requires each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each agency must prepare a plan to improve access to its Federally conducted programs and activities (i.e., the services it provides directly to the public) by eligible LEP persons.

In accordance with the EO, the U.S. Department of Transportation (DOT) published revised LEP guidelines concerning service and policies by recipients of Federal financial assistance in the Federal Register (70 FR 74087) on December 14, 2005 (see attached). This guidance supersedes existing guidance on the same subject originally published in the 66 FR 6733 (January 22, 2001). The purpose of this LEP policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the USDOT recipients and assist them in fulfilling their responsibilities to LEP persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The guidance applies to all DOT funding recipients, which include State departments of transportation, State motor vehicle administrations, airport operators, metropolitan planning organizations (MPO), and regional, State, and local transit operators,

among many others. Additional information regarding DOT's LEP guidance can also be found at <http://www.dotcr.ost.dot.gov/asp/lep.asp>

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the recipient to people's lives.
4. The resources available to the recipient and costs.

In accordance with the requirements, the FHWA's Office of Civil Rights is available to assist with the implementation of the EO 13166. Please distribute this information to your State partners, local government, MPOs, etc. and work with them in the implementation of the LEP requirements.

Should you have any questions, please contact either Ms. Rosemarie Morales at 410-779-7150, Ms. Linda J. Williams at 202-366-1604, or Ms. Ann Wicks at 202-366-2213. Thank you for your assistance in this important matter.

Attachment

LEP Guidelines, Federal Register (70 FR 74087)

[TEXT](#) [PDF](#)

cc: Joseph Austin



VDOT's LEP Guidelines -- Appendix F Language Survey Form

Pursuant to Title VI of the Civil Rights Act of 1964 and Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," The Virginia Department of Transportation (VDOT) is conducting a survey of VDOT to determine the level of potential resources available for possible language translation and interpretation. The Civil Rights Division has a language service contract that will be the primary source for translations. We anticipate using employees as a back-up resource from time to time. Disclosure of this information is strictly voluntary.

Name:	District:	Division:
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Please indicate languages you speak in addition to English:

<input type="checkbox"/> Spanish	<input type="checkbox"/> Polish
<input type="checkbox"/> Chinese (Mandarin)	<input type="checkbox"/> Portuguese
<input type="checkbox"/> Chinese (Cantonese)	<input type="checkbox"/> Thai
<input type="checkbox"/> Japanese	<input type="checkbox"/> Arabic
<input type="checkbox"/> Korean	<input type="checkbox"/> Hebrew
<input type="checkbox"/> Russian	<input type="checkbox"/> Hindi
<input type="checkbox"/> Vietnamese	<input type="checkbox"/> Bosnian
<input type="checkbox"/> Armenian	<input type="checkbox"/> Punjabi
<input type="checkbox"/> Cambodian (Khmer)	<input type="checkbox"/> Urdu
<input type="checkbox"/> German	<input type="checkbox"/> Tagalog
<input type="checkbox"/> Haitian Creole	<input type="checkbox"/> African Dialects
<input type="checkbox"/> Italian	<input type="checkbox"/> Other

Language #1:

<input type="checkbox"/> Read	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Write	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Speak	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited

Language #2:

<input type="checkbox"/> Read	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Write	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Speak	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited

Language #3:

<input type="checkbox"/> Read	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Write	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited
<input type="checkbox"/> Speak	<input type="checkbox"/> Fluent	<input type="checkbox"/> Passable	<input type="checkbox"/> Limited

Please indicate whether you would be willing to provide language assistance.

<input type="checkbox"/> Yes
<input type="checkbox"/> No

If you have any questions or need assistance, please contact VDOT's Civil Rights Division at 804-786-2730. Please return form by 2/15/12 to corina.herrera@vdot.virginia.gov

APPENDIX K
VDOT's Four Factor Analysis



LIMITED ENGLISH PROFICIENCY (LEP) FOUR FACTOR ANALYSIS

A Statistical Analysis of Virginia's LEP Population

January 5, 2017

Table of Contents

Introduction.....	2
Scope.....	2
Method.....	2
Results.....	4
Conclusion	6
Recommendations.....	6
APPENDIX A.....	7
APPENDIX B.....	8
APPENDIX C.....	9

INTRODUCTION

Signed on August 11, 2000, Executive Order 13166 “Improving Access to Services for Persons with Limited English Proficiency”, requires Federal agencies to evaluate services provided to Limited English Proficient (LEP) individuals, identify LEP service needs, and develop and implement a system for providing necessary language assistance to LEP populations. The Department of Justice LEP guidance recommends conducting a four factor analysis to comply with executive order 13166. These factors include:

1. The Number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee
2. The frequency with which LEP individuals come in contact with the program
3. The nature and importance of the program, activity, or service provided by the recipient to people’s lives
4. The resources available to the recipient and costs

As a recipient of federal financial assistance, the Virginia Department of Transportation is required to complete an individual assessment based on the four factor analysis, (Federal Register/Vol. 70, No. 239, Section V, page 74091). This report details the results of a statistical study conducted by VDOT based on DOJ’s suggested four factor analysis. Results of the study are used to assist VDOT in improving and developing systems to address LEP service needs.

SCOPE

This report summarizes a statistical analysis of Virginia’s LEP population at the district level. Results include a state baseline ratio in addition to LEP averages and location quotients for each of VDOT’s 9 districts. Additionally, the report includes the language composition of each district’s LEP population.

METHOD

Data

All analyzed data originated from the US Census 2015 Bureau American Community Survey (ACS). Data regarding the total population of Virginia (by county) and total population of those that “Speak English less than very well” (by county), was collected from the ACS report and recorded in Microsoft Excel. For the purpose of this study, those who reported their English speaking ability as “less than very well” were considered Limited English Proficient (LEP).

Equations

State Level LEP Baseline Ratio

<u>State Level LEP Baseline Ratio</u>	
State Baseline Ratio	$\frac{\text{Total number of LEP persons in}}{\text{Total state population}}$

The state level LEP baseline ratio establishes a threshold for the state of Virginia and a point of comparison for evaluating district level values. The state level LEP baseline ratio was calculated by dividing the total number of LEP persons in Virginia by Virginia's total state population.

District Level LEP Ratio

<u>District Level LEP Ratio</u>	
District LEP Ratio	$\frac{\text{Total number of LEP persons in}}{\text{Total district population}}$

The district level LEP ratio represents the proportion of LEP persons in each district. District level LEP ratios were calculated by dividing the total number of LEP persons in the district by the district's total population.

Location Quotient

$\text{LQ} = \frac{\frac{x_i}{n_i}}{\frac{x}{n}} = \frac{x_i}{x} \times \frac{n}{n_i}$	<p>X_i = LEP population in district n_i = Total population in district X = LEP population in Virginia n = Total population in Virginia</p>
--	--

A location quotient (LQ) is an analytic statistic used to examine the contribution of one region as compared to the larger geographic area. A location quotient indicates if one region holds a greater share of the economy compared to other regions. For the purpose of this study, the

location quotient is calculated for each district to identify the distribution of Virginia's LEP population across its 9 districts. LQ determines which districts contain a greater portion of Virginia's total LEP population based on a comparison of district and state populations.

Procedure

Total population values (by county) were organized and summed by district, creating total district population and total LEP district population values. District level data rather than county level data were manipulated to generate meaningful inferences applicable to VDOT's organizational structure. State and district summations were used to calculate the state level LEP baseline ratio, district level LEP ratios, and location quotients for each district.

Location quotients were then categorized into high, medium, and low significance levels. An LEP LQ value below 1 indicated a district contained a smaller proportion of those speaking English "less than very well" than expected compared to state and district population values. Districts with LQ values below 0.499 were considered of low LEP significance.

An LEP LQ value of 1 indicated a district contained an expected LEP population based on state and district population levels. Districts with LQ values between 0.500 and 0.999 were considered of medium LEP significance.

An LEP LQ value greater than 1 indicated a district contained a larger proportion of Virginia's total LEP population than expected compared to state and district population levels. Districts with LQ values greater than 1 were considered of high LEP significance.

Additionally, 1 year estimates from the US Census 2015 Bureau American Community Survey (ACS) were organized and summed to determine the language composition of each district's LEP population.

RESULTS

State Level LEP Baseline Ratio and District Level LEP Ratios

District	LEP Ratio
Bristol	6.40%
Culpeper	3.10%
Fredericksburg	2.71%
Hampton Roads	2.72%
Lynchburg	1.30%
Northern VA	1.20%
Richmond	3.60%
Salem	2.10%
Staunton	3.20%
State Level Baseline Ratio	5.30%

VA LEP Population: 435, 922 (5.30%)

Virginia's LEP population of 435, 922, represents 5.3% of Virginia's total population. The state level baseline ratio indicates that for every 5.3% of the population encountered, a portion of the LEP population is likely to be encountered. Similarly, district level LEP ratios reflect the proportion of LEP individuals within each district's population.

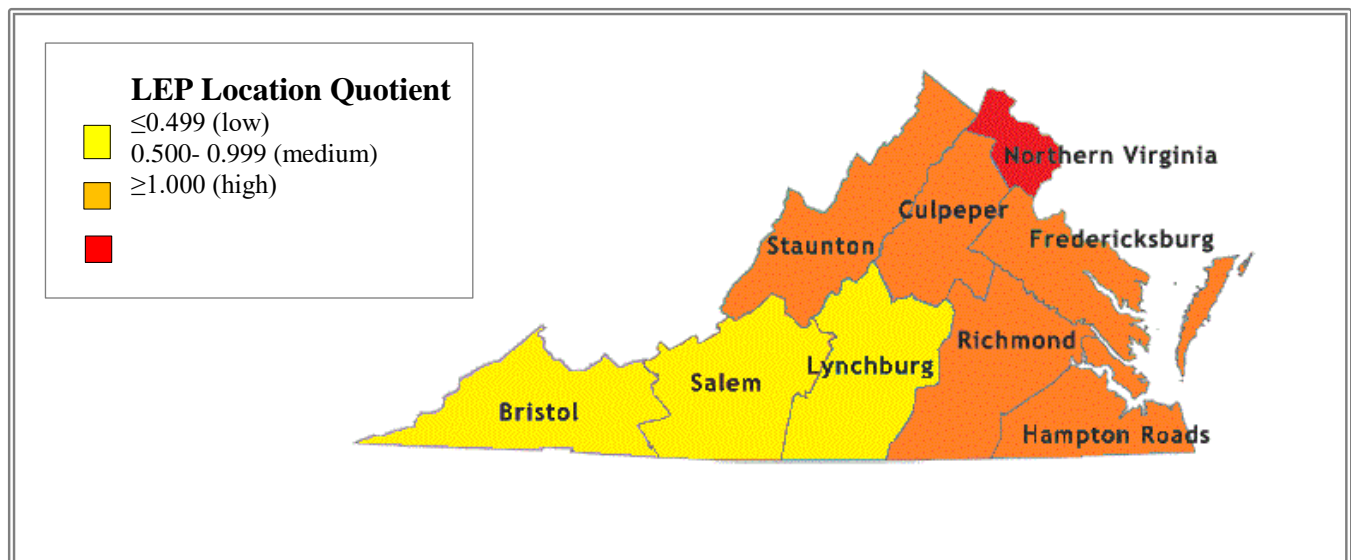
Location Quotient and LEP Significance

Determining which districts contain a greater portion of Virginia's total LEP population

District	LEP LQ	Significance
Bristol	0.121143828	low
Lynchburg	0.240515874	low
Salem	0.40525435	low
Fredericksburg	0.514233585	medium
Hampton Roads	0.515202219	medium
Culpeper	0.594012366	medium
Staunton	0.600378322	medium
Richmond	0.68789711	medium
Northern VA	2.207677369	high

Low: 3 districts
Medium: 5 districts
High: 1 district

Map of LEP Significance by District, 2015



Bristol, Lynchburg, and Salem were of low LEP significance. Fredericksburg, Hampton Roads, Culpeper, Staunton, and Richmond were of medium LEP significance. Only 1 district surpassed the 1.0 threshold, Northern Virginia District was of high LEP significance with an LQ of 2.21.

CONCLUSION

The results of this statistical study reveal key factors that will assist VDOT in developing strategies for providing language assistance to LEP individuals throughout the state. According to these calculations, Virginia's LEP population represents 5.3% of the state's total population. Virginia's LEP population of 435,922 individuals, is most concentrated in the northern and eastern regions of the state, particularly in the Staunton, Culpeper, Richmond, Hampton Roads, Fredericksburg, and Northern Virginia Districts. Only the Northern Virginia District indicated high LEP significance with 64% of Virginia's total LEP population residing within its boundaries.

Data collected on the language composition of Virginia's LEP population as shown in Appendix A and C, will inform the selection of core languages for VDOT's contract with translation and interpretation services. Although Virginia's LEP population is dispersed throughout the state, the results of this study identify which districts may require greater resources to provide adequate language assistance.

RECOMMENDATIONS

Projects involving 5.3% or more of residents in LEP significant districts, should implement a public outreach plan that targets at least 5.3% of the district's population to comply with Executive Order 13166. In addition, projects with potentially high and adverse human health and environmental effects (EJ significant) should be closely monitored as they may have considerable impact on LEP populations in LEP significant districts.

Based on Northern Virginia's high LEP LQ, VDOT should provide them additional language support; such as ensuring an interpreter is available for every public hearing if needed. The results presented in this report will assist VDOT in making language assistance decisions as necessary to better serve LEP persons and identify and resolve potential problems.

APPENDIX A
Languages Spoken in the State of Virginia

	Language	Estimate
1	Spanish or Spanish Creole	553,342
2	African languages	65,157
3	Chinese	61,774
4	Korean	55,133
5	Vietnamese	54,693
6	Other Asian languages	51,715
7	Arabic	51,416
8	Tagalog	46,115
9	Other Indic languages	38,025
10	Urdu	34,198
11	Persian	31,065
12	French (incl. Patois, Cajun)	28,867
13	German	27,327
14	Hindi	23,954
15	Russian	14,938
16	Other Indo-European languages	14,513
17	Japanese	10,016
18	Gujarati	9,395
19	Portuguese or Portuguese Creole	9,137
20	Thai	8,385
21	Italian	8,245
22	Other Pacific Island languages	6,646
23	Mon-Khmer, Cambodian	6,374
24	French Creole	5,854
25	Serbo-Croatian	5,852
26	Greek	5,607
27	Other West Germanic languages	4,192
28	Other Slavic languages	4,035
29	Polish	3,499
30	Scandinavian languages	3,245
31	Other and unspecified languages	2,077
32	Hungarian	1,863
33	Laotian	1,570
34	Hebrew	1,120
35	Armenian	1,043
36	Other Native North American languages	990
37	Yiddish	150
38	Navajo	98

(Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates)

APPENDIX B

Virginia LEP Population by Language

Language		Estimate
1	Spanish or Spanish Creole:	234,844
2	Chinese:	29,434
3	Korean:	29,421
4	Vietnamese:	28,938
5	African languages:	18,499
6	Arabic:	16,499
7	Persian:	12,262
8	Tagalog:	11,793
9	Other Indic languages:	11,399
10	Other Asian languages:	10,990
11	Urdu:	10,215
12	Russian:	4,971
13	French (incl. Patois, Cajun):	4,575
14	Thai:	4,257
15	Other Indo-European languages:	4,247
16	Hindi:	4,005
17	Japanese:	3,423
18	German:	3,396
19	Mon-Khmer, Cambodian:	3,095
20	Portuguese or Portuguese Creole:	2,387
21	Other Pacific Island languages:	2,270
23	Gujarati:	1,823
24	Italian:	1,752
25	Serbo-Croatian:	1,644
26	Other Slavic languages:	1,027
27	Greek:	970
28	Laotian:	715
29	French Creole:	554
30	Other West Germanic languages:	447
31	Other and unspecified languages:	430
32	Polish:	351
33	Armenian:	312
34	Hungarian:	306
35	Scandinavian languages:	254
36	Other Native North American languages:	163

(Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates)

APPENDIX C
Virginia LEP Population by District

District	Spanish	Asian and Pacific Islander languages	Other Indo-European languages	Other languages
Bristol	1317	385	412	106
Culpeper	6,806	2,845	2,134	703
Fredericksburg	8,390	2,330	1,818	696
Hampton Roads	21,288	16,809	6,733	2308
Lynchburg	2,874	1,078	870	166
Northern Virginia	132,028	77,792	44,279	23,712
Richmond	24,867	10,461	7,494	3,145
Salem	6,851	3,892	2,614	1,414
Staunton	12,305	1,687	2,212	952

(Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Estimates)

Appendix L

Data Collection Guidelines

The diversity of Virginia's population reflects the diversity of the population of the entire nation. It is critically important that VDOT and its sub-recipients be innovative in engaging historically under represented populations and businesses in the planning, project development and maintenance processes. According to the census bureau 2010 data, Virginia's total population estimate for 2013 was 8,260,405; females made up 50.1% of the population; people 65 years and older made up 13.4% of the population; Whites (not Hispanic or Latino) made up 63.6% of the population; Blacks or African Americans made up 19.7% of the population; Asians made up 6.1% of the population; Hispanic or Latinos made up 8.6% of the population, Native Hawaiian and Other Pacific Islanders made up 0.1 % of the population and American Indians and Alaska Native made up 0.5% of the population.

Purpose of Collecting Data:

23 U.S.C, 200.9(b)(4) requires the state "develop procedures for the collection of statistical data of participants in and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities." In addition, data collection provides measurable evidence of the Department's performance as it relates to Title VI for annual reports to the FHWA and the Department's efforts to ensure compliance with Title VI.

Objective data is necessary to identify:

1. Transportation needs of all persons within boundaries and plans or projects.
2. Impacts and persons impacted.
3. Persons to include in the decision making process.
4. Strategies to address impacts.
5. Alternatives to modes and locations and types of facilities (transit, light rail, van and carpooling, HOV lanes, etc.).
6. Priorities for investments.
7. Sources for financing investments.
8. Strategies to disseminate information.

Based on Title VI implementing regulations, each division/district is required to:

1. Provide for the collection of data and information to permit effective enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.
4. Eliminate discrimination when it is found.
5. Take affirmative measures to ensure nondiscrimination.

Resources for collecting data:

1. Demographic
 - U.S. Census Data - ACS and Decennial
 - Census-based maps: NY Times, UVA DOT MAP, EJSCREEN, QGIS
 - Other public sources:
 - School Districts
 - Land Use Plans
 - Surveys:
 - Transit Ridership Surveys
2. Geographic Information Systems
3. Management Systems (Pavement and Congestion)
4. Transportation Models
5. Metropolitan Planning Organization Committees (e.g., Citizen Advisory Committees)
6. NEPA documents

How to collect data:

Each division develops a process to collect data for the following basis:

Race *	White/Caucasian
	Black/African American
	American Indian/Alaskan Native
	Asian
	Hawaiian/Pacific Islander
	Hispanic/Latino
National Origin	Born in United States, Puerto Rico, Guan, The U.S. Virgin Islands, Northern Marianas or
	Born Abroad of American parent(s)
	Born outside U.S., Puerto Rico, Guam, the U.S. Virgin Islands or Northern Marianas
Does the Person Speak a Language other than English at home?	If yes, what is the language? _____
	No
Sex	Male
	Female
Age	_____

*How to present/allocate multiple race responses is addressed in Office Management and Budget Bulletin No. 00-02. Office of Management and Budget Bulletin No. 00-02 establishes multiple race response is acceptable.

All of the data collection considerations above apply directly to VDOT programs and when administering new or renewal contracts or applications for grants, permits or loans, an oversight perspective of your sub-recipients must be recognized and applied.

In addition, the U.S. Department of Justice regulations offer the examples below for determining compliance with Title VI:

1. The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination.
2. The population eligible to be served by race, color or national origin.
3. Data regarding, covered employment, including use of planned use of bilingual public contact employees servicing beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.
4. The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination.
5. The present or proposed membership, by race, color or national origin, in any planning or advisory body which is an integral part of the program.
6. Where location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, national origin,, or sex.

Additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, may be necessary or appropriate for understanding information requirements listed above. This type of data is required to the extent that the data is available.

The Title VI Specialist or the Division Administrator of Civil Rights must be promptly notified of any complaint filed against any program and its sub-recipients alleging discrimination on the basis of race, color or national origin.

Types of data and analysis:

The following sample worksheet was developed by, and is provided by, FHWA as an example of how state highway agencies, as well as subrecipients (cities, counties, and metropolitan planning organizations), can assess and catalog all Title VI-related data sources to help ensure compliance with Title VI of the Civil Rights Act of 1964. It is not intended as an exhaustive list of possible data sources or as the only acceptable format for capturing this data. The worksheet is included in this plan as a guideline for VDOT's Divisions to assess their data collection for Title VI efforts. VDOT's divisions can tailor their data collection instruments to suit the particular needs.

Sample Data Sources Assessments

Source: FHWA's Technical Assistance Forms

Contracts and Finance					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Construction Contracts - Provisions	[Contracts Specialist]	[Contracts Specialist]	Electronic Project File on [internal shared drive]	None.	Information used to assess whether Appendices A and E are included in all construction contracts.
Construction Contracts - Bidding	[Contracts Specialist]	[Contracts Specialist]	Advertisement Records and Construction Manual	None.	Information used to assess whether Title VI references are included in all advertisements for construction contracts. Policies assessed to ensure nondiscrimination.
Construction Contracts - Prequalification	[Contracts Specialist]	[Prequalification Department Official]	[Prequalification Database]	None.	Data and information used to assess nondiscrimination in the prequalification process.
Professional Services Contracts - Provisions	[Contracts Specialist]	[Procurement Official]	Electronic Project File on [internal shared drive]	None.	Information used to assess whether Appendices A and E are included in all construction contracts.
Professional Services Contracts - Bidding	[Contracts Specialist]	[Procurement Official]	Advertisement Records and Procurement Manual	None.	Information used to assess whether Title VI references are included in all advertisements for construction contracts. Policies assessed to ensure nondiscrimination.
Professional Services Contracts - Selection and Award	[Contracts Specialist]	[Procurement Official]	Form 145 (Proposal Scoresheet), Proposal Records, Bidders List	None.	Data and information used to assess nondiscrimination in the selection and award process. Demographics of all proposers compared to selectees.
Contract Amounts	[Finance Specialist]	[Finance Specialist]	[Internal Database]	U.S. Census - 5 Year ACS, 2010 Census	Data used to assess distribution of contracting dollars compared to demographics of counties and MSAs.

Planning					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement - STIP Development Meetings	[Planning Specialist]	Communications Data Team	[Internal Database] - Communications	None.	Data used to track the number of public meetings held during the STIP development process.
Public Involvement - STIP Development Meeting Attendee Demographics	[Planning Specialist]	Communications Data Team	[Internal Database] - Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography of the state or areas affected.
Public Involvement - Text of Formal Comments submitted during STIP development process	[Planning Specialist]	[Planning Specialist]	Electronic Project File on [internal shared drive]	Email, website submissions	Information used to assess nondiscrimination in public participation process.
Public Involvement - Text of Informal Comments submitted during STIP development process	[Planning Specialist]	[Planning Specialist]	Electronic Project File on [internal shared drive]	Oral comments noted by Communications staff at meeting.	Information used to assess nondiscrimination in public participation process.
Public Involvement - Civil Rights Personnel Meeting Attendance	[Title VI Coordinator]	[Title VI Coordinator]	[Internal spreadsheet] on [internal shared drive]	None.	Information used to assess the number of public meetings civil rights personnel attend.
Project Prioritization - Scoring data for prioritization reviews	[Planning Specialist]	[Planning Specialist]	Scoring sheets and [database] managed by Planning Division	Some scoring sheets collected from regional/local partners	Data used to assess the individual and overall scores for projects in the prioritization process.
Project Prioritization - distribution of projects statewide	[Planning Specialist]	[Planning Specialist]	[Internal spreadsheet] on [internal shared drive]	U.S. Census - 5 Year ACS, 2010 Census; TIP data where necessary	Data used to compare distribution of projects to demographics of counties or MSAs
Certification Reviews - Policy Reviews and recommendations	[Title VI Coordinator]	[Title VI Coordinator]	[Civil Rights Division Certification Files]	MPO Title VI, LEP, TIP, and Long-Range Plans	Information used to make recommendations to MPOs during certification process. Includes analysis of L RTP equity studies regarding projected travel demand, impacts and demographics.

Right of Way					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement - Right of Way Project meetings	[Right of Way Specialist]	Communications Data Team	[Internal Database] - Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography of the state or areas affected.
Relocation - Appraisal Data	[Right of Way Specialist]	[Right of Way Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile), Appraisal Log and Recommendation	Data used to assess demographics of relocatees compared to Just Compensation offers.
Relocation - Assistance Data	[Right of Way Specialist]	[Right of Way Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile), relocation assistance contractor files	Data and information used to assess demographics of relocation packages offered to relocatees, including counselling and relocation payments.
Consultants	[Right of Way Specialist]	[Right of Way Specialist]	Contracts Division database	None.	Data and information used to assess nondiscrimination in advertising and award of Right of Way consultant contracts. Includes demographics of applicant and awardee ownership, award amounts, etc.

Environment					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Public Involvement - Project Area Demographics	[Environmental Specialist]	Communications Data Team	[Internal Database] - Communications	U.S. Census - 5 Year ACS, 2010 Census	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement - Meeting Attendee Demographics	[Communications Specialist]	Communications Data Team	[Internal Database] - Communications	Form 1234: completed by attendees	Data is used to compare meeting attendee demographics with the demography surrounding the project.
Public Involvement - Text of Formal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Email, website submissions	Information used to assess nondiscrimination in public participation process.
Public Involvement - Text of Informal Comments	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Oral comments noted by Communications staff at meeting.	Information used to assess nondiscrimination in public participation process.
Public Involvement - Civil Rights Personnel Meeting Attendance	[Title VI Coordinator]	[Title VI Coordinator]	[Internal spreadsheet] on [internal shared drive]	None.	Information used to assess the number of public meetings civil rights personnel attend.
Project Scoping	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	U.S. Census - 5 Year ACS, 2010 Census	Information used to assess potential impacts for each project alternative compared to the demographics of the populations affected.
Environmental Review - Number of Categorical Exclusions	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of categorical exclusions.
Environmental Review - Number of Environmental Assessments	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Environmental Assessments
Environmental Review - Number of Environmental Impact Statements	[Environmental Specialist]	[Environmental Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Environmental Impact Statements
Environmental Review - Number of Community Impact Assessments	[Planning Specialist]	[Planning Specialist]	[Internal spreadsheet] on [internal shared drive]	None.	Data used to track the number of Community Impact Assessments
Environmental Review - Demographics of Project/Study Area	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	U.S. Census - 5 Year ACS, 2010 Census	Data used to as basis for comparison of project impacts.
Environmental Review - Air Quality Impacts for Each Alternative	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Air Quality Report	Data compared for each alternative to assess disparities.
Environmental Review - Noise Impacts for Each Alternative	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Noise Impact Report	Data compared for each alternative to assess disparities.
Environmental Review - Right of Way Impacts	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	Right of Way Form 1235 (relocatee profile)	Data used to compare demographic impacts to relocatees for each project alternative.
Environmental Review - Mitigation Measures	[Environmental Specialist]	[Environmental Specialist]	Electronic Project File on [internal shared drive]	None.	Qualitative information assessed to determine whether impacts addressed equitably.

Construction					
Data/Information Description	Collection Personnel	Data Contact	Internal System / Resource	External Source	Title VI Analysis Description
Construction Contracts - Mitigation Commitments	[Contracts Specialist]	[Project Engineer]	Project log (dailies), change orders, EIS/EA, contract provisions	None.	Information used to assess whether mitigation commitments made during environmental phase that impact minority populations are carried through construction.
Construction Contracts - Traffic Control	[Contracts Specialist]	[Project Engineer]	Traffic Control Plan, Project Log (dailies), EA/EIS	U.S. Census - 5 Year ACS, 2010 Census	Data and information used to assess equity of vehicular access to project area for impacted persons compared to demographics of project area.
Construction Contracts - Pedestrian Accommodation	[Contracts Specialist]	[Project Engineer]	Traffic Control Plan, Project Log (dailies), EA/EIS	U.S. Census - 5 Year ACS, 2010 Census	Data and information used to assess equity of pedestrian access to project area for impacted persons compared to demographics of project area.